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Federal Register

Friday
May 29, 1992

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 2. The relationship between the Federal Register and Code of Federal Regulations.
 3. The important elements of typical Federal Register documents.
 4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

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- WHERE:** Room 328
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Chicago, IL
- RESERVATIONS:** Call the Federal Information Center, 1-800-366-2998

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 91-ASO-22]

Revocation of Blairsville, GA Transition Area Before Effective Date

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes the Blairsville, GA Transition Area. On April 1, 1992 the final rule was published in the *Federal Register* (57 FR 10986) which established the transition area with an effective date of August 20, 1992. The transition area was established for the purpose of providing additional controlled airspace for instrument flight rule (IFR) aeronautical operations. This action was precipitated by the development of a standard instrument approach procedure (SIAP) to serve the Blairsville Airport. Unfortunately, the SIAP could not satisfy flight inspection requirements. In the absence of an instrument approach procedure, justification no longer exists for the transition area.

EFFECTIVE DATE: 0901 UTC, June 15, 1992.

FOR FURTHER INFORMATION CONTACT: James G. Walters, Airspace Section, System Management Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 763-7646.

SUPPLEMENTARY INFORMATION:

History

On April 1, 1992, the FAA amended part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish the Blairsville, GA Transition Area (57 FR 10986). This action would lower the base of controlled airspace from 1200

feet to 700 feet above the surface in vicinity of the Blairsville Airport effective August 20, 1992. A SIAP had been developed to serve the airport and the additional controlled airspace was needed for IFR aeronautical operations. Subsequent to publication of the Final Rule establishing the transition area, the proposed SIAP failed to pass flight inspection. In the absence of a viable instrument approach procedure, a need no longer exists for the transition area.

The Rule

This amendment to part 71 of the Federal Aviation Regulations revokes the Blairsville, GA Transition Area prior to its effective date. The transition area was established to provide additional controlled airspace for IFR aircraft. A SIAP had been developed to serve the Blairsville Airport. However, subsequent to publication of the final rule which established the transition area, the planned SIAP failed to pass flight inspection. In the absence of the SIAP, a need no longer exists for the transition area. Since this action merely involves the removal of a transition area before it has become effective or charted, this amendment is inconsequential to the public, and notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas, Incorporation by reference.

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7, Compilation of Regulations, published April 30, 1991, and effective November 1, 1991, is amended as follows:

Section 71.181 Transition Areas

Blairsville, GA [Revoked]

Issued in East Point, Georgia, on May 13, 1992.

Don Cass,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 92-12616 Filed 5-28-92; 8:45 am]

BILLING CODE 4910-13-M

Office of the Secretary

14 CFR Part 255

[Docket No. 46494; Amdt. No. 255-8]

RIN 2105-AB47

Computer Reservations System Regulations

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Department is extending the expiration date of its existing rules on computer reservations systems (CRSs) to December 11, 1992, to enable the Department to complete its rulemaking on whether those rules should be renewed for a longer period and, if so, with what changes.

EFFECTIVE DATE: May 29, 1992.

FOR FURTHER INFORMATION CONTACT: Thomas Ray or Gwyneth Radloff, Office of the General Counsel, 400 7th Street SW., Washington, DC 20590, (202) 366-4731 or 366-9305, respectively.

SUPPLEMENTARY INFORMATION:

Introduction

When the Department's rules governing computer reservations systems (CRSs) operating in the United States, 14 CFR part 255, were originally adopted by the Civil Aeronautics Board

(the "Board") in 1984, one section (§ 255.10(b)) provided that the rules would expire on December 31, 1990. (When the Board ceased to exist on December 31, 1984, we took over most of its remaining functions, including these rules.) To determine whether we should readopt the rules and, if so, with what changes, we began this proceeding. We issued an Advance Notice of Proposed Rulemaking requesting comments on these issues. Advance Notice of Proposed Rulemaking, Computer Reservations Systems, 54 FR 38670 (September 21, 1989). Because of the large number of comments that were filed, and the complexity of the issues, we could not complete this rulemaking by the rules' original expiration date. We therefore amended § 255.10(b) of the rules to change the termination date from December 31, 1990, to November 30, 1991. 55 FR 53149 (December 27, 1990).

We thereafter issued a notice of proposed rulemaking (NPRM), which proposed to readopt the rules with some changes. 56 FR 12586 (March 26, 1991). In addition to requesting comment on the rules proposed in that notice, we also asked for further information and comment in other areas, such as the need and practicality of rules eliminating architectural bias.

We received a large number of comments and reply comments on the NPRM. The Department of Justice, 16 states and one territory, the European Civil Aviation Conference, the CRS vendors and the carriers controlling the CRSs, six other U.S. airlines, 15 foreign airlines and airline groups, the two major travel agency trade associations, a number of travel agency and agent parties, and other persons and groups filed comments advocating widely-varying positions on the need for CRS rules in general and on specific regulatory proposals. In addition, we decided to grant Northwest's request for additional information on system reliability. Order 91-8-63 (August 30, 1991). The complexity of the issues and our decision to seek additional information on CRS reliability kept us from issuing a final rule by November 30, 1991. We therefore changed the expiration date for the current rules to May 31, 1992. 56 FR 60915 (November 29, 1991).

On January 28, 1992, the President issued an order requiring this Department, as well as other executive branch agencies, to review all existing regulations to see whether they provided benefits outweighing their burdens and directing us to suspend most pending rulemaking for 90 days in

order to make resources available for this regulatory review. We determined that the moratorium covered this proceeding. At the end of the moratorium, the President determined that it should be extended for 120 days so that executive agencies could focus their efforts on eliminating rules which were determined in the regulatory review to be unduly burdensome.

In view of the President's regulatory review and the complexity and difficulty of the issues presented in this proceeding, we determined that we could not adopt new rules by May 31, 1992, the rules' current expiration date. We proposed to change the expiration date to December 11, 1992. 57 FR 19821 (May 8, 1992). We tentatively determined that the current rules should be maintained for another six months in order to prevent the disruption that would occur if the rules expired and if we later adopted the same or similar rules.

Comments

We received a comment on our proposal to change the expiration date filed jointly by Alaska Airlines, America West Airlines, Association of Retail Travel Agents, American Society of Travel Agents, Aviation Consumer Action Project, British Airways, Consumer Federation of America, Continental Airlines, Delta Air Lines, KLM Royal Dutch Airlines, Northwest Airlines, System One Corporation, Trans World Airlines, and Worldspan ("the Alaska group"), and individual comments from Worldspan, L.P., Covia Partnership, United Air Lines, American Airlines, and Southwest Airlines.

The Alaska Group complains that our failure to adopt new rules has benefited only American and United, the carriers controlling the two largest CRSs. These parties further assert that virtually every party in this proceeding, except for American and United, agrees that stronger CRS rules are needed and that we have had ample time to adopt new CRS rules, since this proceeding was begun over 2 years ago. They point out that our notice proposing new rules tentatively concluded that the new proposals could substantially promote airline and CRS competition. Finally, as these parties construe the President's statement extending the regulatory review, the final CRS rules should be issued by August 1, 1992, since no further public comment is required for the adoption of new rules. These parties accordingly oppose the proposed extension of the rules' expiration date to any date after August 1.

In its comments, Worldspan regrettably states that our failure to act

on the proposals for prohibiting liquidated damages and minimum use clauses in contracts for CRS services between travel agency subscribers and CRS vendors has caused it to end its experiment in offering travel agencies CRS subscription contracts containing neither type of clause, because Worldspan cannot put itself in a disadvantageous position where its subscribers can be converted without penalty by competing systems while Worldspan can obtain subscribers from users of other system only by indemnifying those agencies for liquidated damages.

Southwest Airlines filed a late comment agreeing that the current rules should be extended until new rules are in place but arguing that new rules should be adopted well before December 11. Southwest asserts in particular that we should quickly adopt a rule allowing travel agencies to use third-party equipment as their CRS terminals, as proposed in our NPRM, since such a rule would enable carriers like Southwest to establish direct electronics links between their internal reservations systems and travel agency terminals and thereby promote competition and reduce airline costs. Furthermore, Southwest contends that the President's regulatory review should require the early adoption of new CRS rules; the President's order directs agencies to complete rulemakings that will create jobs and enhance economic growth, and, according to Southwest, our proposed CRS rules will further those goals.

Covia states that we should adopt final rules as soon as possible, since continued delay in the rulemaking creates significant business uncertainties for Covia and its customers, may encourage ill-advised legislative efforts to resolve CRS issues, and aggravates the problems created because the record is assertedly already out of date.

Rather than comment directly on the proposed change in the rules' expiration date, American alleges that we cannot adopt additional rules without a further investigation of the issues, particularly with respect to the various proposals that would require each CRS to offer equal functionality to all participating carriers.

While United (the carrier that controls Covia) does not oppose an extension of the current rules, United agrees with Covia that the record is out-of-date. United also notes that the General Accounting Office's recent report on CRS issues concluded that the rulemaking data's on certain

architectural bias was insufficient to justify adoption of the more radical proposals for eliminating so-called architectural bias. In United's view, we should take the time needed to analyze the relevant issues before adopting any new rules rather than adopt rules because of any deadline established by Department.

Need for Extending the Expiration Date

After reviewing the comments, we have determined to adopt our proposal to amend § 255.10(b) to change the rules' expiration date to December 11, 1992. We cannot complete the rulemaking on whether the current rules should be readopted, with or without changes, by May 31, 1992, and allowing the current rules to expire would be disruptive, as explained in our Notice of Proposed Rulemaking.

We could not adopt new CRS rules by the August 1 deadline proposed by the Alaska group. Because of the regulatory review required by the President, we suspended work on the CRS rules in order to implement the President's directive that we focus our attention on identifying and eliminating burdensome and unnecessary rules already in force. We have identified many such regulations, and carrying out the task of modifying or repealing those regulations will force a delay in our consideration of new CRS rules. In arguing that the President's regulatory review order sets an August 1 deadline for the completion of the CRS rulemaking, the Alaska group has misconstrued the President's instructions. The President stated that agencies should complete rulemakings by August 1 that required no further public comment, if those rulemakings had been identified in the regulatory review process as rulemakings needed for ending unnecessary rules. We did not identify the CRS rulemaking as such a rulemaking in our regulatory review. Instead, our "Report to the President: Review of Regulations" stated that the CRS rules required further review. As a result, the August 1 deadline does not apply to the CRS rulemaking. Finally, the Alaska group's request for a quick completion of this proceeding overlooks the complexity of the issues and the comments on the NPRM that suggested that a number of our proposals should be revised or reconsidered.

We recognize the importance of completing the rulemaking as soon as possible, consistently with the President's instructions on regulatory policy, and we intend to do so.

We recognize that the comments and reply comments on our NPRM were filed almost one year ago and that the CRS and airline businesses may have

changed since we issued the NPRM. If, as Covia and United assert, the record should be updated to reflect such changes, Covia and United, as well as other parties, should file supplemental comments advising us of such developments, as American, for example, has done.

Effective Date

We have determined for good cause to make this amendment effective on May 29, 1992, rather than 30 days after publication as required by the Administrative Procedure Act, 5 U.S.C. 553(d), except for good cause shown. In order to maintain the current rules in effect on a continuing basis, we must make this amendment effective by May 29, 1992. Since the amendment preserves the status quo, it will require no changes in the current operations of the CRS vendors, U.S. and foreign airlines, and travel agencies. As a result, making the amendment effective less than 30 days after publication will not burden anyone.

Regulatory Impact Analysis

Executive Order 12291 requires each executive agency to prepare a regulatory impact analysis for every "major rule". The Order defines a major rule as one likely to result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The CRS regulations appear to be a major rule, since they would probably have an annual impact on the economy of \$100 million or more.

Our notice proposing to change the rules' expiration date pointed out that the Board had done a regulatory impact analysis in its CRS rulemaking and that our NPRM also contained such an analysis (see 56 FR 12627-12630), although that analysis focused on the effects of the proposed changes to the rules. We stated that the Board's analysis, as modified by our NPRM's analysis, appeared to remain valid for our proposal to extend the rules' expiration date, and that we therefore proposed to rely on those analyses. We noted that we would consider comments from any parties on that analysis before making our proposal final.

No one filed comments on the regulatory impact analysis. We will

therefore make final our initial regulatory impact analysis.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (Pub. L. 96-354) is intended to ensure that agencies consider flexible approaches to the regulation of small businesses and other small entities. It requires regulatory flexibility analyses for rules that, if adopted, would have a significant economic impact on a substantial number of small business entities. In its rulemaking the Board had conducted a regulatory flexibility analysis on the rules' impact, see 49 FR 32560-32561, as noted in our notice proposing to change the May 31, 1992, expiration date. We stated there that the amendment would not change the existing regulation of small businesses and that the Board's analysis appeared applicable to our proposed amendment. We therefore stated that we would adopt that analysis, subject to any comments filed on the proposal.

No party commented on the regulatory flexibility analysis. We have accordingly determined to make final our initial analysis.

Paperwork Reduction Act

This rule will not impose any collection-of-information requirements and so is not subject to the Paperwork Reduction Act, Public Law 96-511, 44 U.S.C. Chapter 35.

Federalism Implications

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12812, we have determined that the rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

List of Subjects in 14 CFR Part 255

Air carriers, Antitrust, Reporting and recordkeeping requirements.

Accordingly, the Department of Transportation is amending 14 CFR part 255, Carrier-owned Computer Reservation Systems, as follows:

PART 255—CARRIER-OWNED COMPUTER RESERVATION SYSTEMS

1. The authority citation for part 255 continues to read as follows:

Authority: Secs. 102, 204, 404, 411, 419, 1102; Pub. L. 85-726 as amended, 72 Stat. 740, 743, 760, 769, 797; 92 Stat. 1732; 49 U.S.C. 1302, 1324, 1374, 1381, 1389, 1502.

2. Section 255.10 is revised to read as follows:

§ 255.10 Review and termination.

Unless extended, this part shall terminate on December 11, 1992.

Issued in Washington, DC on: May 26, 1992.

Andrew H. Card, Jr.,

Secretary of Transportation.

[FR Doc. 92-12710 Filed 5-27-92; 11:15 am]

BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8419]

RIN 1545-AC37

One Class of Stock Requirement

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the requirement that a small business corporation have only one class of stock. Changes to the applicable law were made by the Subchapter S Revision Act of 1982. These regulations affect corporations and their shareholders and are necessary to provide them with guidance needed to comply with the applicable tax law.

EFFECTIVE DATE: These regulations are effective for taxable years of the corporation beginning on or after May 28, 1992. However, grandfathering rules are provided for instruments, obligations, or agreements issued or entered into before May 28, 1992. In addition, corporations and their shareholders may apply these regulations to prior taxable years.

FOR FURTHER INFORMATION CONTACT: Scott Carlson (202) 343-8459 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On August 13, 1991, the Internal Revenue Service published in the *Federal Register* a notice of proposed rulemaking (56 FR 38391) amending the Income Tax Regulations (26 CFR part 1) under section 1361 of the Internal Revenue Code (Code) and replacing an earlier notice of proposed rulemaking (55 FR 40870) published in the *Federal Register* of October 5, 1990. These amendments were proposed to implement section 1361 (b)(1)(D) and (c) (4) and (5) as added by the Subchapter S Revision Act of 1982. The notice

provided rules relating to the one class of stock requirement for small business corporations electing S status under section 1362 of the Code. Comments responding to the notice were received, and a public hearing was held on October 31, 1991. After considering the comments and the statements made at the hearing, the Service adopts the proposed regulations as revised by this Treasury Decision.

Certain provisions relating to other requirements under section 1361 are reserved in this document. See the notice of proposed rulemaking published in the *Federal Register* (51 FR 35659) on October 7, 1986, with respect to those provisions.

Explanation of Provisions

General Rules

The proposed and final regulations provide that a corporation is treated as having only one class of stock if all outstanding shares of stock of the corporation confer identical rights to distribution and liquidation proceeds and if the corporation has not issued any instrument or obligation, or entered into any arrangement, that is treated as a second class of stock. Under the proposed and final regulations, the determination of whether all outstanding shares of stock confer identical rights to distribution and liquidation proceeds is based on the corporate charter, articles of incorporation, bylaws, applicable state law, and any binding agreements relating to distribution or liquidation proceeds (collectively, the governing provisions). The proposed and final regulations also provide that although a corporation is not treated as having more than one class of stock so long as the governing provisions provide for identical distribution and liquidation rights, any distributions (including actual, constructive, or deemed distributions) that differ in timing or amount are to be given appropriate tax effect in accordance with the facts and circumstances.

Under the proposed regulations, a routine commercial contractual arrangement is not a binding agreement relating to distribution and liquidation proceeds, and thus is not a governing provision, unless the arrangement is entered into to circumvent the one class of stock requirement. In response to comments, the final regulations clarify this rule by deleting the word routine, which caused confusion, and by adding a principal purpose standard. The final regulations thus provide that a commercial contractual agreement is not a governing provision unless a principal

purpose of the agreement is to circumvent the one class of stock requirement.

Comments also requested guidance on the appropriate tax effects of distributions that differ in timing or amount. Because the tax effects of such distributions are necessarily based on other provisions of the Code, general tax law principles, and the particular facts and circumstances, the final regulations do not provide additional guidance on this issue.

Shares Taken Into Account

Under the proposed and final regulations, all outstanding shares of stock are taken into account in determining whether a corporation has more than one class of stock. The proposed regulations provide that, for purposes of subchapter S, stock that is issued in connection with the performance of services for the corporation and that is substantially nonvested (within the meaning of § 1.83-3(b)) is not treated as outstanding stock unless the holder makes an election with respect to the stock under section 83(b).

Comments stated that limiting application of these rules to situations in which the services are performed for the corporation is overly restrictive and inconsistent with the regulations under section 83. In response to these comments, the final regulations permit the application of these rules when the services are not performed for the corporation.

Some S corporations have treated substantially nonvested stock for which no section 83(b) election has been made as outstanding stock for purposes of the subchapter S income allocation provisions. Although the final regulations are effective for taxable years of a corporation beginning on or after May 28, 1992, existing stock that has been treated as outstanding by the corporation (even though it is substantially nonvested) is treated as outstanding for purposes of subchapter S, and the fact that it is substantially nonvested and no section 83(b) election has been made with respect to it does not cause the stock to be treated as a second class of stock. The fact that a corporation has been furnished a Schedule K-1 (Form 1120S) with respect to the stock is evidence that the corporation has treated the stock as outstanding.

Some comments requested clarification of certain aspects of the interaction of section 83 and these regulations. The Service is reviewing these issues and plans to issue further guidance addressing them.

The proposed and final regulations also provide that deferred compensation arrangements that do not involve section 83 property are ordinarily not treated as outstanding stock for purposes of subchapter S. Generally, this provision applies to arrangements issued pursuant to a plan under which the employee or independent contractor is not taxed currently on income. However, in response to comments, the final regulations clarify that even in cases in which the deferred compensation plan has a current payment feature (e.g., it provides for the payment of dividend equivalent amounts that are taxed currently as compensation) the plan fits within the deferred compensation exception.

Exceptions to General Rules

State Laws

The proposed and final regulations provide that certain types of state laws are disregarded in determining whether all of a corporation's outstanding shares of stock confer identical rights to distribution and liquidation proceeds. Under the proposed and final regulations, state laws that require a corporation to pay or withhold state income taxes on behalf of some or all of the corporation's shareholders are disregarded, provided that, when the constructive distributions resulting from the payment or withholding of taxes by the corporation are taken into account, the outstanding shares confer identical rights to distribution and liquidation proceeds.

Comments requested that the final regulations address whether the same result would follow if the payments of state income taxes were treated not as constructive distributions but as advances that must be repaid or offset by reductions in distributions. The Service and Treasury believe that the same analysis should apply whether the payments of state income taxes are treated as constructive distributions or as advances that are required to be repaid or offset against distributions. In response to the comments, the final regulations clarify this issue by example.

Redemption and Buy-Sell Agreements and Restrictions on Transferability

The proposed and final regulations provide that agreements to redeem or purchase stock at the time of death, disability, or termination of employment are disregarded in determining whether a corporation's outstanding shares of stock confer identical distribution and liquidation rights. Some comments suggested that redemption or buy-sell

agreements triggered by divorce should also be disregarded. In response to these comments, the final regulations disregard agreements triggered by divorce. In addition, the final regulations provide that the Commissioner, at her discretion, may adopt other exceptions.

Other comments expressed concern about the application of the proposed regulations to forfeiture provisions that cause a share of stock to be substantially nonvested under section 83 of the Code. In response, the final regulations provide that forfeiture provisions that cause a share of stock to be substantially nonvested are disregarded in determining whether a corporation's outstanding shares of stock confer identical distribution and liquidation rights. Thus, if substantially nonvested stock is treated as outstanding because a section 83 (b) election has been made with respect to it, the forfeiture provisions that cause the stock to be substantially nonvested are disregarded.

The proposed regulations treat general and non-general redemption agreements differently. In response to comments concerning this disparate treatment, the final regulations eliminate the distinction between general and non-general redemption agreements. Under the final regulations, all redemption and buy-sell agreements that are not disregarded under the rules described in the previous two paragraphs are evaluated under a single standard. The final regulations provide that buy-sell agreements, agreements to restrict the transferability of stock, and redemption agreements are disregarded in determining whether a corporation's outstanding shares of stock confer identical distribution and liquidation rights unless (i) a principal purpose of the agreement is to circumvent the one class of stock requirement and (ii) the agreement establishes a redemption or purchase price that, at the time the agreement is entered into, is significantly in excess of or below the fair market value of the stock. As under the proposed regulations, if an agreement provides for the purchase or redemption of stock at book value or at a price between fair market value and book value, it is disregarded.

Some comments expressed uncertainty as to whether put options are subject to this rule. The final regulations do not specifically address this issue. The Service and Treasury believe that an agreement that effectively constitutes a buy-sell or redemption agreement should be treated as such regardless of its designation.

In addition, comments requested clarification of the term book value. In response, the final regulations provide two safe harbors. First, a determination of book value in accordance with Generally Accepted Accounting Principles (including permitted optional adjustments) will be respected. Second, a determination of book value used for any substantial nontax purpose will be respected.

The proposed regulations did not contain any grandfathering provisions applicable to buy-sell or redemption agreements. In response to comments, the final regulations grandfather buy-sell agreements, redemption agreements, and agreements restricting transferability that are entered into before May 28, 1992.

Rules Relating to Debt Obligations, Call Options, and Similar Instruments

In General

The proposed and final regulations provide that instruments, obligations, or arrangements may be treated as a second class of stock in certain circumstances. Like the proposed regulations, the final regulations provide a number of safe harbors or exceptions for certain ordinary business arrangements entered into by S corporations and their shareholders.

Obligations Designated as Debt

The proposed regulations provide that an obligation (whether or not designated as debt) is not treated as a second class of stock unless two conditions are met: (1) The obligation constitutes equity or otherwise results in the holder being treated as the owner of stock under general principles of Federal tax law, and (2) the obligation is used to contravene the rights conferred by the corporation's outstanding stock with regard to distribution or liquidation proceeds or to contravene the limitation on eligible shareholders.

In response to comments requesting clarification of the contravention standard and to simplify the regulations, the final regulations substitute for the contravention standard the principal purpose standard that is used elsewhere in the final regulations. Thus, the second condition that must be met for an obligation to be considered a second class of stock under the final regulations is that a principal purpose of the obligation is to circumvent the rights conferred by the corporation's outstanding stock or to circumvent the limitation on eligible shareholders.

Call Options

The proposed regulations provide that a call option (or similar instrument) is not treated as a second class of stock unless, taking into account all the facts and circumstances, the call option is substantially certain to be exercised and has a strike price substantially below the fair market value of the underlying stock on the date that the call option is issued, transferred to a person who is not an eligible shareholder, or materially modified.

Some comments stated that options should never be taken into account in determining whether a corporation has more than one class of stock and cited Rev. Rul. 67-269, 1967-2 C.B. 298, as authority for their position. Rev. Rul. 67-269 does not address deep-in-the-money options. The Service and Treasury believe that deep-in-the-money options effectively confer rights to corporate equity and should be taken into account for purposes of the one class of stock requirement. The final regulations retain the proposed option rules with the modifications discussed below.

Comments also suggested that options should not be retested on transfer from one ineligible shareholder to another or when transfer is by operation of law. In response to these comments, the final regulations adopt a rule that does not retest options on transfer from one ineligible shareholder to another. The Service and Treasury believe that this rule covers most transfers by operation of law that should be excepted. However, the final regulations provide that the Commissioner, in her discretion, may adopt other exceptions.

Guidance was also requested on the treatment of options that vest over time. This type of option could be tested once (when granted) or on several occasions (as vesting occurs). To clarify this question, the comment suggested defining the date of issuance of an option as the date the corporation becomes contractually bound to grant the option and the grant is not subject to contingencies beyond the corporation's control. The Service and Treasury do not believe that it is appropriate to define the date of issuance of an option in the section 1361 regulations. Furthermore, the Service and Treasury believe most options that vest over time will fall within the exception for options issued to employees and independent contractors (discussed below) and, thus will not be tested on date of issuance in any event. However, the Service and Treasury may issue further guidance on this question.

Exceptions for Certain Call Options

The proposed and final regulations set forth two exceptions for call options. First, a call option is not treated as a second class of stock if it is issued to a person that is actively and regularly engaged in the business of lending and is issued in connection with a loan to the corporation that is commercially reasonable. Second, a call option that is issued to an individual who is an employee or an independent contractor in connection with the performance of services (and that is not excessive by reference to the services performed) is not treated as a second class of stock if the call option is nontransferable within the meaning of § 1.83-3(d) and the call option does not have a readily ascertainable fair market value as defined in § 1.83-7(b) at the time the option is issued.

Comments questioned whether a lender could transfer an option and accompanying loan to another lender and remain within the scope of the lender exception. The final regulations specifically provide that the exception continues to apply if a lender transfers an option and the accompanying loan (or a portion of the option and a corresponding portion of the accompanying loan). If a lender transfers the option without a corresponding portion of the loan, the lender exception ceases to apply.

It is not intended that lenders be treated less favorably than other persons to whom options are issued. For this reason, if on the date it is issued to a lender an option is not substantially certain to be exercised or does not have a strike price substantially below the fair market value of the underlying stock, the option is not retested on any subsequent transfer from one ineligible shareholder to another. However, if on the date it is issued to a lender an option is substantially certain to be exercised and has a strike price substantially below the fair market value of the underlying stock, and the lender exception later ceases to apply because the lender transfers the option without the loan, the option is tested on the date of transfer.

Comments also questioned whether the exception for options issued to employees and independent contractors extends beyond termination of employee or independent contractor status. The final regulations clarify by example that this exception is not affected by termination of employee or independent contractor status.

In addition, a comment requested that the exception for options issued to employees and independent contractors

specifically apply if the services are performed either for the issuing corporation or for a corporation more than 50 percent of the stock of which is owned by the issuing corporation (by vote and value). The final regulations adopt this rule.

Effective Date

These regulations generally apply to taxable years of a corporation beginning on or after May 28, 1992. However, these regulations do not apply to: an instrument, obligation, or arrangement issued or entered into before May 28, 1992 and not materially modified after that date; a buy-sell agreement, redemption agreement, or agreement restricting transferability entered into before May 28, 1992 and not materially modified after that date; or a call option or similar instrument issued before May 28, 1992 and not materially modified after that date. Corporations and their shareholders may apply these regulations to prior taxable years.

In addition, as noted above, a grandfather rule is provided for existing stock that has been treated as outstanding even though it is substantially nonvested and no section 83(b) election has been made with respect to it.

Special Analyses

It has been determined that these final rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking for the regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal authors of these final regulations are David R. Haglund and Scott Carlson of the Office of Assistant Chief Counsel (Passthroughs and Special Industries). However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in their development.

List of Subjects in 26 CFR 1.1361-OA Through 1.1378-3

Income taxes, Reporting and recordkeeping requirements, Small businesses.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. The authority citation for part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805 * * * Section 1.1361-1(l) also issued under 26 U.S.C. 1361(c)(5)(C).

Par. 2. A new undesignated center heading is added immediately following § 1.1348-3 to read as follows:

Small Business Corporations and Their Shareholders**§ 1.1361-OA [Redesignated as § 1.1361-O]**

Par. 3. Section 1.1361-OA is redesignated as § 1.1361-O.

§ 1.1361-O [Amended]

Par. 4. Newly designated § 1.1361-O is amended by:

1. Removing the language "1.1374-1A" each place it appears and adding "1.1374-1" in its place.

2. Removing the language "1.1375-1A" each place it appears and adding "1.1375-1" in its place.

Par. 5. Section 1.1361-1 is added to read as follows:

§ 1.1361-1 S corporation defined.

(a) [Reserved]

(b) *Small business corporation defined*—(1) *In general.* For purposes of subchapter S, chapter 1 of the Code and the regulations thereunder, the term small business corporation means a domestic corporation that is not an ineligible corporation (as defined in section 1361(b)(2)) and that does not have—

- (i) More than 35 shareholders;
- (ii) As a shareholder, a person (other than an estate and other than certain trusts described in section 1361(c)(2)) who is not an individual;
- (iii) A nonresident alien as a shareholder; or
- (iv) More than one class of stock.

(2) *Estate in bankruptcy.* The term *estate*, for purposes of this paragraph, includes the estate of an individual in a case under title 11 of the United States Code.

(3) *Treatment of restricted stock.* For purposes of subchapter S, stock that is

issued in connection with the performance of services (within the meaning of § 1.83-3(f)) and that is substantially nonvested (within the meaning of § 1.83-3(b)) is not treated as outstanding stock of the corporation, and the holder of that stock is not treated as a shareholder solely by reason of holding the stock, unless the holder makes an election with respect to the stock under section 83(b). In the event of such an election, the stock is treated as outstanding stock of the corporation, and the holder of the stock is treated as a shareholder for purposes of subchapter S. See paragraphs (l) (1) and (3) of this section for rules for determining whether substantially nonvested stock with respect to which an election under section 83(b) has been made is treated as a second class of stock.

(4) *Treatment of deferred compensation plans.* For purposes of subchapter S, an instrument, obligation, or arrangement is not outstanding stock if it—

- (i) Does not convey the right to vote;
- (ii) Is an unfunded and unsecured promise to pay money or property in the future;
- (iii) Is issued to an individual who is an employee in connection with the performance of services for the corporation or to an individual who is an independent contractor in connection with the performance of services for the corporation (and is not excessive by reference to the services performed); and
- (iv) Is issued pursuant to a plan with respect to which the employee or independent contractor is not taxed currently on income.

A deferred compensation plan that has a current payment feature (e.g., payment of dividend equivalent amounts that are taxed currently as compensation) is not for that reason excluded from this paragraph (b)(4).

(5) *Treatment of straight debt.* For purposes of subchapter S, an instrument or obligation that satisfies the definition of straight debt in paragraph (l)(5) of this section is not treated as outstanding stock.

(6) *Effective date provision.* Section 1.1361-1(b) generally applies to taxable years of a corporation beginning on or after May 28, 1992. However, a corporation and its shareholders may apply this § 1.1361-1(b) to prior taxable years. In addition, substantially nonvested stock issued on or before May 28, 1992 that has been treated as outstanding by the corporation is treated as outstanding for purposes of subchapter S, and the fact that it is substantially nonvested and no section

83(b) election has been made with respect to it will not cause the stock to be treated as a second class of stock.

(c) through (k) [Reserved]

(l) *Classes of stock*—(1) *General rule.* A corporation that has more than one class of stock does not qualify as a small business corporation. Except as provided in paragraph (l)(4) of this section (relating to instruments, obligations, or arrangements treated as a second class of stock), a corporation is treated as having only one class of stock if all outstanding shares of stock of the corporation confer identical rights to distribution and liquidation proceeds. Differences in voting rights among shares of stock of a corporation are disregarded in determining whether a corporation has more than one class of stock. Thus, if all shares of stock of an S corporation have identical rights to distribution and liquidation proceeds, the corporation may have voting and nonvoting common stock, a class of stock that may vote only on certain issues, irrevocable proxy agreements, or groups of shares that differ with respect to rights to elect members of the board of directors.

(2) *Determination of whether stock confers identical rights to distribution and liquidation proceeds*—(i) *In general.* The determination of whether all outstanding shares of stock confer identical rights to distribution and liquidation proceeds is made based on the corporate charter, articles of incorporation, bylaws, applicable state law, and binding agreements relating to distribution and liquidation proceeds (collectively, the governing provisions). A commercial contractual agreement, such as a lease, employment agreement, or loan agreement, is not a binding agreement relating to distribution and liquidation proceeds and thus is not a governing provision unless a principal purpose of the agreement is to circumvent the one class of stock requirement of section 1361(b)(1)(D) and this paragraph (l). Although a corporation is not treated as having more than one class of stock so long as the governing provisions provide for identical distribution and liquidation rights, any distributions (including actual, constructive, or deemed distributions) that differ in timing or amount are to be given appropriate tax effect in accordance with the facts and circumstances.

(ii) *State law requirements for payment and withholding of income tax.* State laws may require a corporation to pay or withhold state income taxes on behalf of some or all of the corporation's shareholders. Such laws are disregarded

in determining whether all outstanding shares of stock of the corporation confer identical rights to distribution and liquidation proceeds, within the meaning of paragraph (l)(1) of this section, provided that, when the constructive distributions resulting from the payment or withholding of taxes by the corporation are taken into account, the outstanding shares confer identical rights to distribution and liquidation proceeds. A difference in timing between the constructive distributions and the actual distributions to the other shareholders does not cause the corporation to be treated as having more than one class of stock.

(iii) *Buy-sell and redemption agreements*—(A) *In general.* Buy-sell agreements among shareholders, agreements restricting the transferability of stock, and redemption agreements are disregarded in determining whether a corporation's outstanding shares of stock confer identical distribution and liquidation rights unless—

(1) A principal purpose of the agreement is to circumvent the one class of stock requirement of section 1361(b)(1)(D) and this paragraph (l), and

(2) The agreement establishes a purchase price that, at the time the agreement is entered into, is significantly in excess of or below the fair market value of the stock.

Agreements that provide for the purchase or redemption of stock at book value or at a price between fair market value and book value are not considered to establish a price that is significantly in excess of or below the fair market value of the stock and, thus, are disregarded in determining whether the outstanding shares of stock confer identical rights. For purposes of this paragraph (l)(2)(iii)(A), a good faith determination of fair market value will be respected unless it can be shown that the value was substantially in error and the determination of the value was not performed with reasonable diligence. Although an agreement may be disregarded in determining whether shares of stock confer identical distribution and liquidation rights, payments pursuant to the agreement may have income or transfer tax consequences.

(B) *Exception for certain agreements.* Bona fide agreements to redeem or purchase stock at the time of death, divorce, disability, or termination of employment are disregarded in determining whether a corporation's shares of stock confer identical rights. In addition, if stock that is substantially nonvested (within the meaning of § 1.83-3(b)) is treated as outstanding under these regulations, the forfeiture

provisions that cause the stock to be substantially nonvested are disregarded. Furthermore, the Commissioner may provide by Revenue Ruling or other published guidance that other types of bona fide agreements to redeem or purchase stock are disregarded.

(C) *Safe harbors for determinations of book value.* A determination of book value will be respected if—

(1) The book value is determined in accordance with Generally Accepted Accounting Principles (including permitted optional adjustments); or

(2) The book value is used for any substantial nontax purpose.

(iv) *Distributions that take into account varying interests in stock during a taxable year.* A governing provision does not, within the meaning of paragraph (l)(2)(i) of this section, alter the rights to liquidation and distribution proceeds conferred by an S corporation's stock merely because the governing provision provides that, as a result of a change in stock ownership, distributions in a taxable year are to be made on the basis of the shareholders' varying interests in the S corporation's income in the current or immediately preceding taxable year. If distributions pursuant to the provision are not made within a reasonable time after the close of the taxable year in which the varying interests occur, the distributions may be recharacterized depending on the facts and circumstances, but will not result in a second class of stock.

(v) *Examples.* The application of paragraph (l)(2) of this section may be illustrated by the following examples. In each of the examples, the S corporation requirements of section 1361 are satisfied except as otherwise stated, the corporation has in effect an S election under section 1362, and the corporation has only the shareholders described.

Example 1. Determination of whether stock confers identical rights to distribution and liquidation proceeds. (i) The law of State A requires that permission be obtained from the State Commissioner of Corporations before stock may be issued by a corporation. The Commissioner grants permission to S, a corporation, to issue its stock subject to the restriction that any person who is issued stock in exchange for property, and not cash, must waive all rights to receive distributions until the shareholders who contributed cash for stock have received distributions in the amount of their cash contributions.

(ii) The condition imposed by the Commissioner pursuant to state law alters the rights to distribution and liquidation proceeds conferred by the outstanding stock of S so that those rights are not identical. Accordingly, under paragraph (l)(2)(i) of this section, S is treated as having more than one class of stock and does not qualify as a small business corporation.

Example 2. Distributions that differ in timing. (i) S, a corporation, has two equal shareholders, A and B. Under S's bylaws, A and B are entitled to equal distributions. S distributes \$50,000 to A in the current year, but does not distribute \$50,000 to B until one year later. The circumstances indicate that the difference in timing did not occur by reason of a binding agreement relating to distribution or liquidation proceeds.

(ii) Under paragraph (l)(2)(i) of this section, the difference in timing of the distributions to A and B does not cause S to be treated as having more than one class of stock. However, section 7872 or other recharacterization principles may apply to determine the appropriate tax consequences.

Example 3. Treatment of excessive compensation. (i) S, a corporation, has two equal shareholders, C and D, who are each employed by S and have binding employment agreements with S. The compensation paid by S to C under C's employment agreement is reasonable. The compensation paid by S to D under D's employment agreement, however, is found to be excessive. The facts and circumstances do not reflect that a principal purpose to D's employment agreement is to circumvent the one class of stock requirement of section 1361(b)(1)(D) and this paragraph (l).

(ii) Under paragraph (l)(2)(i) of this section, the employment agreements are not governing provisions. Accordingly, S is not treated as having more than one class of stock by reason of the employment agreements, even though S is not allowed a deduction for the excessive compensation paid to D.

Example 4. Agreement to pay fringe benefits. (i) S, a corporation, is required under binding agreements to pay accident and health insurance premiums on behalf of certain of its employees who are also shareholders. Different premium amounts are paid by S for each employee-shareholder. The facts and circumstances do not reflect that a principal purpose of the agreements is to circumvent the one class of stock requirement of section 1361(b)(1)(D) and this paragraph (l).

(ii) Under paragraph (l)(2)(i) of this section, the agreements are not governing provisions. Accordingly, S is not treated as having more than one class of stock by reason of the agreements. In addition, S is not treated as having more than one class of stock by reason of the payment of fringe benefits.

Example 5. Below-market corporation-shareholder loan. (i) E is a shareholder of S, a corporation. S makes a below-market loan to E that is a corporation-shareholder loan to which section 7872 applies. Under section 7872, E is deemed to receive a distribution with respect to S stock by reason of the loan. The facts and circumstances do not reflect that a principal purpose of the loan is to circumvent the one class of stock requirement of section 1361(b)(1)(D) and this paragraph (l).

(ii) Under paragraph (l)(2)(i) of this section, the loan agreement is not a governing provision. Accordingly, S is not treated as having more than one class of stock by reason of the below-market loan to E.

Example 6. Agreement to adjust distributions for state tax burdens. (i) S, a

corporation, executes a binding agreement with its shareholders to modify its normal distribution policy by making upward adjustments of its distributions to those shareholders who bear heavier state tax burdens. The adjustments are based on a formula that will give the shareholders equal after-tax distributions.

(ii) The binding agreement relates to distribution or liquidation proceeds. The agreement is thus a governing provision that alters the rights conferred by the outstanding stock of S to distribution proceeds so that those rights are not identical. Therefore, under paragraph (l)(2)(i) of this section, S is treated as having more than one class of stock.

Example 7. State law requirements for payment and withholding of income tax. (i) The law of State X requires corporations to pay state income taxes on behalf of nonresident shareholders. The law of State X does not require corporations to pay state income taxes on behalf of resident shareholders. S is incorporated in State X. S's resident shareholders have the right (for example, under the law of State X or pursuant to S's bylaws or a binding agreement) to distributions that take into account the payments S makes on behalf of its nonresident shareholders.

(ii) The payment by S of state income taxes on behalf of its nonresident shareholders are generally treated as constructive distributions to those shareholders. Because S's resident shareholders have the right to equal distributions, taking into account the constructive distributions to the nonresident shareholders, S's shares confer identical rights to distribution proceeds. Accordingly, under paragraph (l)(2)(ii) of this section, the state law requiring S to pay state income taxes on behalf of its nonresident shareholders is disregarded in determining whether S has more than one class of stock.

(iii) The same result would follow if the payments of state income taxes on behalf of nonresident shareholders are instead treated as advances to those shareholders and the governing provisions require the advances to be repaid or offset by reductions in distributions to those shareholders.

Example 8. Redemption agreements. (i) F, G, and H are shareholders of S, a corporation. F is also an employee of S. By agreement, S is to redeem F's shares on the termination of F's employment.

(ii) On these facts, under paragraph (l)(2)(iii)(B) of this section, the agreement is disregarded in determining whether all outstanding shares of S's stock confer identical rights to distribution and liquidation proceeds.

Example 9. Analysis of redemption agreements. (i) J, K, and L are shareholders of S, a corporation. L is also an employee of S. L's shares were not issued to L in connection with the performance of services. By agreement, S is to redeem L's shares for an amount significantly below their fair market value on the termination of L's employment or if S's sales fall below certain levels.

(ii) Under paragraph (l)(2)(iii)(B) of this section, the portion of the agreement providing for redemption of L's stock on termination of employment is disregarded.

Under paragraph (l)(2)(iii)(A), the portion of the agreement providing for redemption of L's stock if S's sales fall below certain levels is disregarded unless a principal purpose of that portion of the agreement is to circumvent the one class of stock requirement of section 1361(b)(1)(D) and this paragraph (l).

(3) *Stock taken into account.* Except as provided in paragraphs (b) (3), (4), and (5) of this section (relating to restricted stock, deferred compensation plans, and straight debt), in determining whether all outstanding shares of stock confer identical rights to distribution and liquidation proceeds, all outstanding shares of stock of a corporation are taken into account. For example, substantially nonvested stock with respect to which an election under section 83(b) has been made is taken into account in determining whether a corporation has a second class of stock, and such stock is not treated as a second class of stock if the stock confers rights to distribution and liquidation proceeds that are identical, within the meaning of paragraph (l)(1) of this section, to the rights conferred by the other outstanding shares of stock.

(4) *Other instruments, obligations, or arrangements treated as a second class of stock—(i) In general.* Instruments, obligations, or arrangements are not treated as a second class of stock for purposes of this paragraph (l) unless they are described in paragraph (l)(5) (ii) or (iii) of this section. However, in no event are instruments, obligations, or arrangements described in paragraph (b)(4) of this section (relating to deferred compensation plans), paragraphs (l)(4)(iii) (B) and (C) of this section (relating to the exceptions and safe harbor for options), paragraph (l)(4)(ii)(B) of this section (relating to the safe harbors for certain short-term unwritten advances and proportionally-held debt), or paragraph (l)(5) of this section (relating to the safe harbor for straight debt), treated as a second class of stock for purposes of this paragraph (l).

(ii) *Instruments, obligations, or arrangements treated as equity under general principles—(A) In general.* Except as provided in paragraph (l)(4)(i) of this section, any instrument, obligation, or arrangement issued by a corporation (other than outstanding shares of stock described in paragraph (l)(3) of this section), regardless of whether designated as debt, is treated as a second class of stock of the corporation—

(1) If the instrument, obligation, or arrangement constitutes equity or otherwise results in the holder being treated as the owner of stock under general principles of Federal tax law; and

(2) A principal purpose of issuing or entering into the instrument, obligation, or arrangement is to circumvent the rights to distribution or liquidation proceeds conferred by the outstanding shares of stock or to circumvent the limitation on eligible shareholders contained in paragraph (b)(1) of this section.

(B) *Safe harbor for certain short-term unwritten advances and proportionately held obligations—(1) Short-term unwritten advances.* Unwritten advances from a shareholder that do not exceed \$10,000 in the aggregate at any time during the taxable year of the corporation, are treated as debt by the parties, and are expected to be repaid within a reasonable time are not treated as a second class of stock for that taxable year, even if the advances are considered equity under general principles of Federal tax law. The failure of an unwritten advance to meet this safe harbor will not result in a second class of stock unless the advance is considered equity under paragraph (l)(4)(ii)(A)(1) of this section and a principal purpose of the advance is to circumvent the rights of the outstanding shares of stock or the limitation on eligible shareholders under paragraph (l)(4)(ii)(A)(2) of this section.

(2) *Proportionately-held obligations.* Obligations of the same class that are considered equity under general principles of Federal tax law, but are owned solely by the owners of, and in the same proportion as, the outstanding stock of the corporation, are not treated as a second class of stock. Furthermore, an obligation or obligations owned by the sole shareholder of a corporation are always held proportionately to the corporation's outstanding stock. The obligations that are considered equity that do not meet this safe harbor will not result in a second class of stock unless a principal purpose of the obligations is to circumvent the rights of the outstanding shares of stock or the limitation on eligible shareholders under paragraph (l)(4)(ii)(A)(2) of this section.

(iii) *Certain call options, warrants or similar instruments—(A) In general.* Except as otherwise provided in this paragraph (l)(4)(iii), a call option, warrant, or similar instrument (collectively, call option) issued by a corporation is treated as a second class of stock of the corporation if, taking into account all the facts and circumstances, the call option is substantially certain to be exercised (by the holder or a potential transferee) and has a strike price substantially below the fair market value of the underlying stock on the date that the call option is issued, transferred

by a person who is an eligible shareholder under paragraph (b)(1) of this section to a person who is not an eligible shareholder under paragraph (b)(1) of this section, or materially modified. For purposes of this paragraph (l)(4)(iii), if an option is issued in connection with a loan and the time period in which the option can be exercised is extended in connection with (and consistent with) a modification of the terms of the loan, the extension of the time period in which the option may be exercised is not considered a material modification. In addition, a call option does not have a strike price substantially below fair market value if the price at the time of exercise cannot, pursuant to the terms of the instrument, be substantially below the fair market value of the underlying stock at the time of exercise.

(B) *Certain exceptions.* (1) A call option is not treated as a second class of stock for purposes of this paragraph (l) if it is issued to a person that is actively and regularly engaged in the business of lending and issued in connection with a commercially reasonable loan to the corporation. This paragraph (l)(4)(iii)(B)(1) continues to apply if the call option is transferred with the loan (or if a portion of the call option is transferred with a corresponding portion of the loan). However, if the call option is transferred without a corresponding portion of the loan, this paragraph (l)(4)(iii)(B)(1) ceases to apply. Upon that transfer, the call option is tested under paragraph (l)(4)(iii)(A) (notwithstanding anything in that paragraph to the contrary) if, but for this paragraph, the call option would have been treated as a second class of stock on the date it was issued.

(2) A call option that is issued to an individual who is either an employee or an independent contractor in connection with the performance of services for the corporation or a related corporation (and that is not excessive by reference to the services performed) is not treated as a second class of stock for purposes of this paragraph (l) if—

(i) The call option is nontransferable within the meaning of § 1.83-3(d); and

(ii) The call option does not have a readily ascertainable fair market value as defined in § 1.83-7(b) at the time the option is issued.

If the call option becomes transferable, this paragraph (l)(4)(iii)(B)(2) ceases to apply. Solely for purposes of this paragraph (l)(4)(iii)(B)(2), a corporation is related to the issuing corporation if more than 50 percent of the total voting power and total value of its stock is owned by the issuing corporation.

(3) The Commissioner may provide other exceptions by Revenue Ruling or other published guidance.

(C) *Safe harbor for certain options.* A call option is not treated as a second class of stock if, on the date the call option is issued, transferred by a person who is an eligible shareholder under paragraph (b)(1) of this section to a person who is not an eligible shareholder under paragraph (b)(1) of this section, or materially modified, the strike price of the call option is at least 90 percent of the fair market value of the underlying stock on that date. For purposes of this paragraph (l)(4)(iii)(C), a good faith determination of fair market value by the corporation will be respected unless it can be shown that the value was substantially in error and the determination of the value was not performed with reasonable diligence to obtain a fair value. Failure of an option to meet this safe harbor will not necessarily result in the option being treated as a second class of stock.

(iv) *Convertible debt.* A convertible debt instrument is considered a second class of stock if—

(A) It would be treated as a second class of stock under paragraph (l)(4)(ii) of this section (relating to instruments, obligations, or arrangements treated as equity under general principles); or

(B) It embodies rights equivalent to those of a call option that would be treated as a second class of stock under paragraph (l)(4)(iii) of this section (relating to certain call options, warrants, and similar instruments).

(v) *Examples.* The application of this paragraph (l)(4) may be illustrated by the following examples. In each of the examples, the S corporation requirements of section 1361 are satisfied except as otherwise stated, the corporation has in effect an S election under section 1362, and the corporation has only the shareholders described.

Example 1. Transfer of call option by eligible shareholder to ineligible shareholder.

(i) S, a corporation, has 10 shareholders. S issues call options to A, B, and C, individuals who are U.S. residents. A, B, and C are not shareholders, employees, or independent contractors of S. The options have a strike price of \$40 and are issued on a date when the fair market value of S stock is also \$40. A year later, P, a partnership, purchases A's option. On the date of transfer, the fair market value of S stock is \$80.

(ii) On the date the call option is issued, its strike price is not substantially below the fair market value of the S stock. Under paragraph (l)(4)(iii)(A) of this section, whether a call option is a second class of stock must be redetermined if the call option is transferred by a person who is an eligible shareholder under paragraph (b)(1) of this section to a person who is not an eligible shareholder

under paragraph (b)(1) of this section. In this case, A is an eligible shareholder of S under paragraph (b)(1) of this section, but P is not. Accordingly, the option is retested on the date it is transferred to D.

(iii) Because on the date the call option is transferred to P its strike price is 50% of the fair market value, the strike price is substantially below the fair market value of the S stock. Accordingly, the call option is treated as a second class of stock as of the date it is transferred to P if, at that time, it is determined that the option is substantially certain to be exercised. The determination of whether the option is substantially certain to be exercised is made on the basis of all the facts and circumstances.

Example 2. Call option issued in connection with the performance of services

(i) E is a bona fide employee of S, a corporation. S issues to E a call option in connection with E's performance of services. At the time the call option is issued, it is not transferable and does not have a readily ascertainable fair market value. However, the call option becomes transferable before it is exercised by E.

(ii) While the option is not transferable, under paragraph (l)(4)(iii)(B)(2) of this section it is not treated as a second class of stock, regardless of its strike price. When the option becomes transferable, that paragraph ceases to apply, and the general rule of paragraph (l)(4)(iii)(A) of this section applies.

Accordingly, if the option is materially modified or is transferred to a person who is not an eligible shareholder under paragraph (b)(1) of this section, and on the date of such modification or transfer, the option is substantially certain to be exercised and has a strike price substantially below the fair market value of the underlying stock, the option is treated as a second class of stock.

(iii) If E left S's employment before the option became transferable, the exception provided by paragraph (l)(4)(iii)(B)(2) would continue to apply until the option became transferable.

(5) *Straight debt safe harbor—(i) In general.* Notwithstanding paragraph (l)(4) of this section, straight debt is not treated as a second class of stock. For purposes of section 1361(c)(5) and this section, the term straight debt means a written unconditional obligation, regardless of whether embodied in a formal note, to pay a sum certain on demand, or on a specified due date, which—

(A) Does not provide for an interest rate or payment dates that are contingent on profits, the borrower's discretion, the payment of dividends with respect to common stock, or similar factors;

(B) Is not convertible (directly or indirectly) into stock or any other equity interest of the S corporation; and

(C) Is held by an individual (other than a nonresident alien), an estate, or a trust described in section 1361(c)(2).

(ii) *Subordination.* The fact that an obligation is subordinated to other debt of the corporation does not prevent the obligation from qualifying as straight debt.

(iii) *Modification or transfer.* An obligation that originally qualifies as straight debt ceases to so qualify if the obligation—

(A) Is materially modified so that it no longer satisfies the definition of straight debt; or

(B) Is transferred to a third party who is not an eligible shareholder under paragraph (b)(1) of this section.

(iv) *Treatment of straight debt for other purposes.* An obligation of an S corporation that satisfies the definition of straight debt in paragraph (l)(5)(i) of this section is not treated as a second class of stock even if it is considered equity under general principles of Federal tax law. Such an obligation is generally treated as debt and when so treated is subject to the applicable rules governing indebtedness for other purposes of the Code. Accordingly, interest paid or accrued with respect to a straight debt obligation is generally treated as interest by the corporation and the recipient and does not constitute a distribution to which section 1368 applies. However, if a straight debt obligation bears a rate of interest that is unreasonably high, an appropriate portion of the interest may be recharacterized and treated as a payment that is not interest. Such a recharacterization does not result in a second class of stock.

(v) *Treatment of C corporation debt upon conversion to S status.* If a C corporation has outstanding an obligation that satisfies the definition of straight debt in paragraph (l)(5)(i) of this section, but that is considered equity under general principles of Federal tax law, the obligation is not treated as a second class of stock for purposes of this section if the C corporation converts to S status. In addition, the conversion from C corporation status to S corporation status is not treated as an exchange of debt for stock with respect to such an instrument.

(6) *Inadvertent terminations.* See section 1362(f) and the regulations thereunder for rules relating to inadvertent terminations in cases where the one class of stock requirement has been inadvertently breached.

(7) *Effective date.* Section 1.1361-1(l) generally applies to taxable years of a corporation beginning on or after May 28, 1992. However, § 1.1361-1(l) does not apply to: an instrument, obligation, or arrangement issued or entered into before May 28, 1992 and not materially modified after that date; a buy-sell

agreement, redemption agreement, or agreement restricting transferability entered into before May 28, 1992 and not materially modified after that date; or a call option or similar instrument issued before May 28, 1992 and not materially modified after that date. In addition, a corporation and its shareholders may apply this § 1.1361-1(l) to prior taxable years.

§§ 1.1374-1A and 1.1375-1A
[Redesignated as §§ 1.1374-1 and 1.1375-1]

Par. 6. Sections 1.1374-1A and 1.1375-1A are redesignated §§ 1.1374-1 and 1.1375-1, respectively.

§ 1.1374-1 [Amended]

Par. 7. Newly designated § 1.1374-1 is amended as follows:

1. The concluding text of paragraph (b)(2) is amended by removing the language "1.1375-1A(c)(2)" and adding in its place "1.1375-1(c)(2)".

2. Paragraph (d)(2) is amended by removing the language "1.1375-1A(c)(2)" and "1.1374-1A(b)(2)" and adding in its place "1.1375-1(c)(2)" and "1.1374-1(b)(2)".

§ 1.1375-1 [Amended]

Par. 8. Newly designated § 1.1375-1 is amended as follows:

1. Paragraph (b)(1)(ii) is amended by removing the language "1.1374-1A(d)" and adding in its place "1.1374-1(d)".

2. The concluding text of paragraph (c)(2) is amended by removing the language "1.1374-1A(b)(1)" and adding in its place "1.1374-1(b)(1)".

Shirley D. Peterson,
Commissioner of Internal Revenue.

Approved: May 13, 1992.
Fred T. Goldberg, Jr.,
Assistant Secretary of the Treasury.

[FR Doc. 92-12507 Filed 5-28-92; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

Indiana Permanent Regulatory Program; Revegetation—Nonprime Farmland

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: OSM is announcing the approval with certain exceptions of proposed amendments to the Indiana

permanent regulatory program (hereinafter referred to as the Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments (Program Amendment No. 91-4 and 91-6) consist of proposed changes to the Indiana Surface Mining Rule provisions concerning revegetation of nonprime farmland. The amendments are intended to establish revegetation success standards for nonprime farmland areas affected by surface mining operations (91-4) and for areas affected by the surface effects of underground mining operations (91-6).

EFFECTIVE DATE: May 29, 1992.

FOR FURTHER INFORMATION CONTACT:
Mr. Roger W. Calhoun, Acting Director, Indianapolis Field Office, Office of Surface Mining Reclamation and Enforcement, Minton-Capehart Federal Building, 575 North Pennsylvania Street, room 301, Indianapolis, IN 46204, Telephone (317) 226-6166.

SUPPLEMENTARY INFORMATION:

- I. Background on the Indiana Program.
- II. Submission of the Amendment.
- III. Director's Findings.
- IV. Summary and Disposition of Comments.
- V. Director's Decision.
- VI. Procedural Determinations.

I. Background on the Indiana Program

On July 29, 1982, the Indiana program was made effective by the conditional approval of the Secretary of the Interior. Information pertinent to the general background on the Indiana program, including the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Indiana program can be found in the July 26, 1982, **Federal Register** (47 FR 32107). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 914.15 and 914.16.

II. Submission of the Amendment

By letter dated May 22, 1991 (Administrative Record No. IND-0872), the Indiana Department of Natural Resources (IDNR) submitted a proposed amendment to the Indiana program at Indiana Administrative Code (IAC) 310 IAC 12-5. The proposed amendment would repeal 310 IAC 12-5-64 and add sections 310 IAC 12-5-64.1, 64.2, and 64.3. The added sections concern surface mining operations and would establish standards for: Revegetation success for nonprime farmlands; revegetation sampling techniques for nonprime farmland; and statistical methodology to evaluate the success of revegetation.

By letter dated May 23, 1991 (Administrative Record No. IND-0874), the IDNR submitted a proposed amendment to the Indiana program at 310 IAC 12-5. The proposed amendment would repeal 310 IAC 12-5-65, 12-5-128 and 12-5-129, and add sections 310 IAC 12-5-128.1, 128.2, and 128.3. The added sections concern the surface impacts of underground mining operations and would establish standards for: Revegetation success for nonprime farmlands; revegetation sampling techniques for nonprime farmland; and statistical methodology to evaluate the success of revegetation.

OSM reviewed the proposed amendments and by letters dated September 5, 1991 (Administrative Record No. IND-0946 and IND-0948), addressed its concerns to Indiana regarding the proposed amendments. Indiana responded by letters dated October 10, 1992 (Administrative Record No. IND-0999 and IND-1001). OSM sent a second letter to Indiana addressing its concerns dated February 26, 1992 (Administrative Record No. IND-1036 and IND-1037). Indiana responded by letters dated March 20, 1992 (Administrative Record No. IND-1051 and IND-1052).

OSM announced receipt of the proposed amendments in the June 27, 1991, *Federal Register* (56 FR 29448 (surface mining) and 56 FR 29447 (underground mining)), and in the same notices, opened the public comment period and provided opportunity for a public hearing on the adequacy of the proposed amendments. The public comment periods ended on July 29, 1991. The scheduled public hearings were not held as no one requested an opportunity to provide testimony.

III. Director's Findings

1. 310 IAC 12-5-64.1 (Surface) and 12-5-128.1 (Underground) Revegetation; Standards for Success for Nonprime Farmland

These new sections establish revegetation success standards on nonprime farmland areas affected by surface mining operations and underground mining operations. Each proposed subsection is discussed below.

(a) 310 IAC 12-5-64.1(a) and 12-5-128.1(a)

These subsections provide that the success of revegetation shall be judged on the effectiveness of the revegetation for the approved postmining land use, the extent of cover compared to the cover occurring in natural vegetation in the area, and the general requirements of 310 IAC 12-5-59 for surface mining,

and 310 IAC 12-5-123 for underground mining. The Director finds that the proposed language is substantively identical to the counterpart Federal regulations at 30 CFR 816/817.116(a).

(b) 310 IAC 12-5-64.1(b) and 12-5-128.1(b)

These subsections provide that ground cover, production, and stocking are satisfactory if they are not less than 90 percent of the success standard as determined by the sampling techniques under proposed 310 IAC 12-5-64.2/128.2 and the statistical methodology under proposed 310 IAC 12-564.3/128.3 (both discussed below).

The proposed provisions are substantively identical to the counterpart Federal regulations at 30 CFR 816/817.116(a)(2) with one exception. The proposed rules lack a counterpart to 30 CFR 816/817.116(a)(2) which provide that standards for success shall include criteria representative of unmined lands in the area being reclaimed to evaluate the appropriate vegetation parameters of ground cover, production, or stocking.

In response to issue letters from OSM (Administrative Record No. IND-0946 and IND-1036 for surface rules and IND-0948 and IND-1037 for underground rules) concerning this omission, Indiana stated (Administrative Record No. IND-0999 and IND-1051 for surface rules, and IND-1001 and IND-1052 for underground rules) that the IDNR agrees that standards for success of revegetation shall be representative of unmined lands in the area being reclaimed. The IDNR further stated that it believes that proposed 310 IAC 12-5-64.1/128.1(a)(2) require that standards for success be representative of unmined lands and that the performance standards of 310 IAC 12-5-64.1/128.1 will require that the performance standards must be representative of unmined lands. Therefore, with the understanding that Indiana will interpret its regulations to require that standards for success of revegetation shall be representative of unmined land in the area being reclaimed, the Director is approving proposed 310 IAC 12-5-64.1/128.1(b).

(c) 310 IAC 12-5-64.1(c)/128.1(c)

These subsections provide the standards for success which are to be applied under the approved postmining land uses. Proposed subsections (c)(1) concern previously mined areas. Subsections (c)(2) concern areas to be developed for an industrial/ commercial or a residential use. Subsections (c)(3) concern pasture land. Subsections (c)(4) concern areas for which the U.S. Soil Conservation Service predicted yields

by soil map unit are used to establish the standard of success. Subsections (c)(5) concern areas developed for shelter belts, fish and wildlife habitat, recreation, or forestry land use. Subsections (c)(6) and (7) concern areas to be used as cropland. Subsections (c)(8) concern standards for barren areas.

Proposed subsections (c)(1) concern previously mined areas that were not reclaimed under 310 IAC 12-5-1 through 310 IAC 12-5-158. The following standards apply to such areas: The ground cover of living plants shall be: (1) Not less than can be supported by the best available topsoil or other suitable material in the reaffected area; (2) Not less than the cover existing before redisturbance; and (3) adequate to control erosion. The Director finds the proposed provision to be substantively identical to the Federal regulations at 30 CFR 816/817.116(b)(5). The Director notes that the proposed provision at 310 IAC 12-5-64.1(c)(1)(A) contains a typographical error ("bext" should read "best"). Indiana has stated that it will correct this typographical error through the "errata process" of the Indiana Register.

Proposed subsections (c)(2) provide that areas to be developed for an industrial/commercial or a residential use less than two years after regrading is completed, the ground cover of living plants shall not be less than what is required to control erosion. The Director finds the proposed language incorporates all of the requirements of the Federal regulations at 30 CFR 816/817.116(b)(4), and is, therefore, no less effective than its Federal counterparts.

Proposed subsections (c)(3) concern the success standards for pastureland and provide that the ground cover success standard shall be 100 percent. In addition, the rules provide that the production of living plants on the revegetated area shall be equal to: (A) An approved reference area, (B) current Soil Conservation Service (SCS) predicted yield by soil map unit, or (C) other success standards approved by the director of IDNR including average county yields recognized by the U.S. Department of Agriculture (USDA) used alone or in conjunction with another success standard.

The counterpart Federal regulations at 30 CFR 816/817.116(b)(1) provide that for areas developed for use as pasture land, the ground cover and production of living plants on the revegetated area shall be at least equal to that of a reference area or such other success standards approved by the regulatory authority. Indiana's proposed use of

current Soil Conservation Service (SCS) predicted yield by soil map unit is acceptable because these estimates are based on local conditions and are widely accepted as estimates of potential yield. OSM has approved the use of SCS predicted yields by soil map unit in other regulatory programs.

If other unnamed success standards are to be used by Indiana, such standards must first be submitted to and approved by OSM as an amendment to the Indiana program. Establishment of a new soil productivity standard requires that additional detailed information concerning the validity of the proposed standard be provided to OSM. Such information must show how the proposed standards are superior or equal to the use of reference areas to measure soil productivity of mined lands. In its March 20, 1992, letters to OSM, Indiana stated that the IDNR will request approval by OSM for other standards prior to their use in the Indiana program if they vary significantly from the approved standards. The Director concurs and finds the language at subsections (c)(3)(C) which refers to "other success standards" is no less effective than the Federal regulations at 30 CFR 816/817.116(b)(1) provided that Indiana will request approval by OSM for other standards prior to their use in the Indiana program.

The Federal regulations at 30 CFR 816/817.116(a)(2) provide that standards for success shall include criteria representative of unmined lands in the area being reclaimed. In its February 26, 1992, letters to Indiana, OSM asked Indiana to clarify how the use of crop yield data from the Indiana Agricultural Statistics Service at Purdue University in cooperation with the USDA, National Agriculture Statistics Service is no less effective than 30 CFR 816/817.116(a)(2). Indiana's average county yield data contains data of yields from previously mined lands and is, therefore, less effective than 30 CFR 816/817.116(a)(2). In response, Indiana stated that the amount of previously mined acreage being farmed is so limited that the inclusion of these yields essentially has no impact upon the overall yields calculated for county average. Indiana currently uses the average county yield data as a weather correction factor applied to predicted soil mapping unit yields.

There is currently no way to separate data from previously mined lands from that representing unmined lands in the Indiana average county yield data. Therefore, because the Federal regulations require that standards for

success shall be representative of unmined lands, the Director finds that the use of the Indiana average county yield as the sole standard for determining success of revegetation is less effective than the Federal regulations at 30 CFR 816/817.116(a)(2). However, the use of Indiana average county yield data as a correction factor is not inconsistent with the Federal regulations. Therefore, the Director is approving proposed 310 IAC 12-5-64.1/128.1(c)(3)(C) except the words "alone or" which would allow Indiana average county yield data recognized by the USDA to be used alone as the sole standard for revegetation success. In addition, to be no less effective than the Federal regulations, the Director is requiring that Indiana remove the words "alone or" from 310 IAC 12-5-64.1/128.1(c)(3)(C).

Proposed subsections (c)(4) provide that if SCS predicted yields are used to establish the standard of success, the standard of success shall be a weighted average of the predicted yields for each unmined soil type which existed on the permit area at the time the permit was issued. The method for establishing the standard, once selected, may not be modified without the approval of the director. The Director finds that the proposed provision is consistent with the Federal standards at 30 CFR 816/817.116(a)(2) which require that standards for success be representative of unmined lands in the area being reclaimed.

Proposed subsections (c)(5) provide the standard for success of areas to be developed for shelter belts or fish and wildlife habitat, recreation, or forestry land use. The success of revegetation is determined on the basis of tree, shrub, or half-shrub stocking and ground cover. Ground cover must be adequate to control erosion. Proposed stocking rates would not be less than: (A) 450 plantings per acre for a forestry use; and (B) a rate appropriate to support a shelter belt or a land use (other than forestry) described in subsections 310 IAC 12-5-64.1/128.1(c)(5). In addition, in the letters dated October 10, 1991, Indiana explained that prior to permit approval, the revegetation plan is reviewed and developed in accordance with the comments prepared by the wildlife biologist in the Technical Services Section of the Indiana Division of Fish and Wildlife. The Director finds that the proposed provisions at 310 IAC 12-5-64.1/128.1(c)(5) are consistent with and no less effective than the Federal regulations at 30 CFR 816/817.116(b)(3).

Proposed subsections (c)(6) concern the success standards for cropland and

provide that crop production on the revegetated area must be at least equal to one of the following: (A) an approved reference area; (B) current SCS predicted yield by soil map unit; or (C) other success standards approved by the director of IDNR, including average county yields recognized by the USDA used alone or in conjunction with another success standard. As discussed above in the Director's finding concerning proposed 310 IAC 12-5-64.1/128.1(c)(3)(C), Indiana's proposed use of SCS predicted yield by soil map unit is acceptable because these estimates are based on local conditions and are widely accepted as estimates of potential yield. If other unnamed success standards are to be used, Indiana must first submit those standards to OSM for approval prior to their use in the Indiana program. Also as discussed above in the Director's finding for proposed 310 IAC 12-5-64.1/128.1(c)(3)(C), Indiana average county yield data contains data of yields of previously mined land. There is currently no way to separate data from previously mined lands from data of unmined lands in the Indiana average county yield data. Therefore, the proposed use of average county yield data as the sole standard of revegetation success is less effective than 30 CFR 816/817.116(a)(2).

The Director is approving the proposed language at 310 IAC 12-5-64.1/128.1(c)(6)(C) except the words "alone or" which would allow Indiana average county yield data recognized by the USDA to be used alone as the sole standard for revegetation success. In addition, to be no less effective than the Federal regulations at 30 CFR 816/817.116(a)(2), the Director is requiring that Indiana remove the words "alone or" from 310 IAC 12-5-64.1/128.1(c)(6)(C).

Proposed subsections (c)(7) provide that a crop grown to demonstrate satisfaction of the requirements for cropland at subsections 310 IAC 12-5-64.1/128.1(c)(6) must be one or more of the crops listed in 310 IAC 12-0.5-32 and as specified in the plan of reclamation. Proposed subsections (c)(7) also provide that an adjustment to predicted crop yields may be made according to accepted agronomic practices after consulting with SCS or other sources approved by the director for factors including disease, weather, tillage management, pests, and seed or plant selection. If SCS predicted yields by soil map unit are used to establish the standard for success, the standard shall be a weighted average of the predicted yields for each unmined soil type which

existed on the permit area at the time the permit was issued. The method of establishing the standard, once selected, may not be modified without the approval of the director of IDNR. The Director finds that the proposed provisions are consistent with the Federal requirements for areas developed for use as cropland at 30 CFR 816/817.116(b)(2) which require that such areas be revegetated to be at least equal to that of a reference area or such other success standards approved by the regulatory authority.

Proposed subsections (c)(8) provide that the aggregate of barren areas within an area under evaluation must not exceed five percent of the area. Subsections (c)(8) further provide that revegetation is not successful unless each barren area within an area under evaluation is: (A) Smaller than 750 square feet; (B) completely surrounded by desirable vegetation; and (C) in compliance with sections 310 IAC 12-5-12.1 and 78.1 concerning topsoil and subsoil, and 310 IAC 12-5-55.1 and 119.1 concerning backfilling and grading. The Director finds that, with the requirements at 310 IAC 12-5-59 which require that revegetative cover shall be capable of stabilizing the soil from erosion, the proposed standards are reasonable, are consistent with similar standards approved by OSM for use in other regulatory programs (for example, Tennessee), and are not inconsistent with the Federal regulations at 30 CFR 816/817.116.

(d) 310 IAC 12-5-64.1/128.1(d)

These subsections provide that a single reference area may be used for more than one permit area if the requirements of proposed subsections (d) are met with respect to each permit area. Proposed subsections (d) further provide that a reference area may be used to establish success standards if specific criteria are met. The criteria concern the minimum size of the reference area relative to the size of the area to be represented, and require the reference area be within 20 miles of the area to be represented. Right-of-entry on the reference area must be secured by written agreement or consent for the entire period in which the reference area will be used. Each reference area shall be representative of the geology, soils, slopes, and vegetation of the area to be represented, and the management of the reference area shall be identical to the area to be represented.

There is no direct Federal counterpart to this proposed provision. However, the Director finds that the proposed provision is reasonable and not inconsistent with the Federal regulations

at 30 CFR 816/817.116 concerning standards for success of revegetation. Therefore, the Director is approving these provisions.

(e) 310 IAC 12-5-64.1/128.1(e)

These subsections provide that the director of IDNR may approve selective husbandry practices (except for augmented seeding, fertilization, or irrigation) without extending the period of responsibility for revegetation success and bond liability if: The practices can be expected to continue as part of the postmining land use; or discontinuance of the practices after the liability period will not reduce the probability of permanent revegetation success.

The Director finds that the proposed provisions are substantively identical to the counterpart Federal regulations at 30 CFR 816/817.116(c)(4) which also authorize regulatory approval of selective husbandry practices.

(f) 310 IAC 12-5-64.1/128.1(f)

These subsections identify the selective husbandry practices which may be approved under 310 IAC 12-5-64.1/128.1(e). These provisions require that selective husbandry practices which may be approved must be normal conservation practices within the region for unmined lands having land uses similar to the approved postmining land use of the disturbed area. The following selective husbandry practices are proposed: (1) Disease, pest, and vermin control; (2) repair of rills and gullies; and (3) pruning, reseeding, or transplanting specifically necessitated by these practices. With the exception of repair of rills and gullies, the proposed language is substantively identical to the Federal regulations at 30 CFR 816/817.116(c)(4). Rill and gully repair as a normal husbandry practice is currently a part of the approved Indiana program at 310 IAC 12-5-64(b). In letters submitted by Indiana (Administrative Record No. IND-0999 and IND-1001) dated October 10, 1991, Indiana stated that routine repair of rills and gullies is a normal conservation practice engaged in by landowners in southwestern Indiana on cropland and pasture land, and encouraged by the Soil Conservation Service. In addition, Indiana stated that the Indiana rule does not provide a blanket approval for rill and gully repair, but allows approval on a case-by-case basis.

The Director finds that the proposed provisions are no less effective than the Federal regulations. The Director notes that 30 CFR 816/817.116(c)(4) also provides that prior approval of proposed selective husbandry practices must be

obtained from OSM in accordance with 30 CFR 732.17. Therefore, any additional selective husbandry practices which Indiana may wish to add to the list of approved selective husbandry practices at 310 IAC 12-5-64.1/128.1(f) must first be submitted to and approved by OSM as a state program amendment under 30 CFR 732.17.

(g) 310 IAC 12-5-64.1/128.1(g)

These subsections provide that success standards identified in 310 IAC 12-5-64.1(c) and 12-5-128.1(c) shall be met during the growing seasons of any two years of the responsibility period, except the first year, for cropland and pasture land. The success standards for any other land use are measured by the last year of the responsibility period. The Director finds these provisions to be substantively identical to the Federal regulations at 30 CFR 816/817.116(c)(2).

Proposed 310 IAC 12-5-64.1/128.1(g) also provide that small areas which are repaired under 310 IAC 12-5-64.1/128.1 may be exempted from the success standards if the grading and vegetation blends with the contiguous area which meets the success standards.

By letter dated September 5, 1991 (Administrative Record No. IND-0946 and IND-0948), OSM informed Indiana that the Federal regulations do not authorize that areas of any size may be exempted from the revegetation success standards. In response (Administrative Record No. IND-0999 and IND-1001), Indiana stated on October 10, 1991, that a standard for success will be applied to all affected areas dependent upon the approved post-mining land use, and that no area shall be exempted from the success standards. Indiana would allow a "test plot" to substitute for these small areas. "Test plots" are areas that due to similar soils, topography, age, management, locality, and any other factor which affects production, can be expected to produce the same yield as the area being evaluated. Such "test plot" procedures are detailed at proposed 310 IAC 12-5-64.2/128.2(c)(2) and at 310 IAC 12-5-64.2/128.2(d)(2) dependent upon the crop grown (Administrative Record No. IND-1051 and IND-1052). Indiana also indicated that the "small areas" which are the focus of this proposed provision are reclaimed sediment basins.

In light of the statements from Indiana dated October 10, 1991, that a standard for success will be applied to all affected areas, and that Indiana's "test plot" procedures at 310 IAC 12-5-64.2/128.2(c)(2) and 310 IAC 12-5-64.2/128.2(d)(2) would be applied to these small areas, the Director finds the use of

"test plots" as described above along with the requirement that the grading and revegetation must blend with the contiguous area which meets the success standards is reasonable and not inconsistent with the Federal regulations at 30 CFR 816/817.116. However, the Director is requiring that Indiana amend 310 IAC 12-5-64.1/128.1(g) to clarify that "test plots" will be used with the repair of small areas and that no such small areas will be exempted from the success standards.

2. 310 IAC 12-5-64.2 (Surface) and 12-5-128.2 (Underground) Revegetation; Sampling Techniques for Nonprime Farmland

The changes proposed in these new sections establish requirements for sampling techniques for nonprime farmland areas affected by surface mining operations and the surface effects of underground mining operations. Subsection (a) provides that success of revegetation is evaluated according to the standards as set forth in 310 IAC 12-5-64.1/128.1 and, if a measurable success standard applies, using sampling techniques set forth in proposed 310 IAC 12-5-64.2/128.2 or which have a 90 percent statistical confidence interval (a one-sided test with a 0.10 alpha error) and which are approved by the director of IDNR. Subsection (b) provides the methods to be followed to evaluate ground cover. Subsection (c) provides the methods to be used to evaluate the production of living plants on cropland used for hay and on pasture land. Subsection (d) provides the methods to be used to evaluate the production of living plants on cropland for crops other than hay. Subsection (e) provides the method to be used to evaluate stocking or planting on an area developed as fish and wildlife habitat, recreation, forest, or shelter belt.

In response to letters from OSM (Administrative Record No. IND-1036 and IND-1037) Indiana stated (Administrative Record No. IND-1051 and IND-1052) that the "or" in proposed subsection (a) means that other methods may be approved if they meet the requirements of 310 IAC 12-5-64.2(a) and 12-5-128.2(a). Indiana reasoned that if a sampling technique is scientifically and statistically valid, the regulatory authority should be given the discretion to approve appropriate techniques. OSM agrees and concurs that any methods approved by the regulatory authority must be scientifically and statistically valid in addition to having a 90 percent statistical confidence interval (in other words, a one-sided test with a 0.10 alpha error).

The proposed language at 310 IAC 12-5-64.2(a)(1) states that statistical procedures may be used if approved by the Indiana Natural Resources Commission (NRC) and contained in the reclamation plan. In a letter dated March 20, 1992 (Administrative Record No. IND-1051), Indiana stated that the NRC no longer approves the plan of reclamation and that these responsibilities have been delegated to the director of IDNR. Therefore, the correct reading of 310 IAC 12-5-64.2(a) should be similar to that of 310 IAC 12-5-128.2(a) and read, "... * * and which are approved by the director." Indiana will correct the language at 310 IAC 12-5-64.2(a)(1) in future rulemaking. In the meantime, the underlying Indiana statutes vest with the director of IDNR the authority for such approvals.

In the March 20, 1992, letters, Indiana clarified that the phrase "another institution" found at 310 IAC 12-5-64.2/128.2(d)(3)(C) means another institution of the quality of those universities identified at 310 IAC 12-5-64.2/128.2(d)(3) (A) and (B).

Proposed 310 IAC 12-5-64.2/128.2(e) establish the procedures for evaluating stocking or planting on an area developed as fish and wildlife habitat, recreation, forest, or shelter belt. These provisions incorporate the revegetation standards of success found at 30 CFR 816/817.116(b)(3).

The Director finds that the proposed provisions at 310 IAC 12-5-64.2/128.2 are technically sound and satisfy the requirements of the Federal regulations at 30 CFR 816/817.116 (Administrative Record No. IND-1069). In addition, the Director is requiring that Indiana amend 310 IAC 12-5-64.2(a) by deleting subparagraph (1) concerning approval of statistical methods by the NRC.

3. 310 IAC 12-5-64.3 (Surface) and 12-5-128.3 (Underground) Revegetation; Statistical Methodology

The proposed changes in these new sections establish requirements for statistical methodology to be used when measuring the success of revegetation on nonprime farmland. Subsections (a) provide that the methods set forth in 310 IAC 12-5-64.3/128.3 are used to evaluate the success of revegetation pursuant to 310 IAC 12-5-64.1/128.1 using the sampling techniques of 310 IAC 12-5-64.2/128.2.

Subsections (b) provide that the minimum number of observations for the area under evaluation shall be determined by following subsections (b)(1), (2), and (3). Subsections (b)(1) provide a table to be used, except as provided in subsections (b)(2) through (b)(3), to determine the required

minimum number of observations. Subsections (b)(2) provide that the director of the IDNR may increase the minimum number of observations if any two observations vary by more than 15 percent. Subsections (b)(2) also provide that if additional samples are required, the formula in subsections (e) shall be used to determine that the number of observations evaluated is sufficient. Subsections (b)(3) provide that a statistical analysis of the result obtained from the area under evaluation shall be performed using the method from subsections (c) or (d). Subsections (b)(3) also provide that if there are apparent discrepancies between the submitted yield derived from random sampling and yield estimates derived by the director, the operator may be required to harvest specific fields in their entirety.

Subsections (c) provide that the sampling results shall be analyzed and identify the specific statistical parameters which must be determined.

Subsections (d) provide that other statistical methods may be approved by the director of IDNR.

Subsections (e) provide a specific formula to be used to determine if the number of samples is sufficient.

In its March 20, 1992, letters, Indiana clarified that the title in the right-hand column in the table found at 310 IAC 12-5-64.3/128.3(b)(1) should read "observations" and not "evaluations." Indiana will correct this through the "errata process" in the Indiana Register. Indiana will also correct a typographical error at 310 IAC 12-5-128.3(c)(4): the sample standard deviation formula should have a square root sign placed over "M/d."

The Director finds the proposed provisions to be technically sound and satisfy the required Federal regulations at 30 CFR 816/817.116 (Administrative Record No. IND-1069).

IV. Summary and Disposition of Comments

Agency Comments

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i), comments were solicited from various interested Federal agencies. The Fish and Wildlife Service, the National Forest Service, and the U.S. Soil Conservation Service responded that they had no comments. The Mine Safety and Health Administration responded that it found no conflicts with the proposed rules.

The U.S. Bureau of Mines responded (Administrative Record No. IND-0908) with three comments. The commenter noted that proposed 310 IAC 12-5-64.1(c)(1)(A) uses the phrase "other

suitable material" and asked how the phrase is defined and where within the context and content of this rule is such a definition found? The Director notes that the phrase "other suitable material" is currently part of the approved Indiana program at 310 IAC 12-5-64(c)(1). In addition, the Indiana rules at 310 IAC 12-5-12.1(c) concern soil substitutes and supplements.

The commenter also asked to what the proposed rule at 310 IAC 12-5-64.1(d)(2) refers. The proposed rule at (d)(2) provides that each reference area shall be representative of the geology, soils, slopes, and vegetation of the area to be represented. This clause means that the reference area must accurately represent the pre-mine soils and geology.

The commenter stated that the term "small areas" as used at 310 IAC 12-5-64.1(g) should have some limits defined. The Director notes that in a letter to OSM dated October 10, 1991 (Administrative Record No. IND-0999) Indiana stated that an example of a "small area" under 310 IAC 12-5-64.1(g) is a reclaimed sediment basin. In addition as discussed in Finding 1(g) above, no area will actually be exempt from the Indiana revegetation standards. Instead, Indiana will allow a "test plot" to substitute for these small areas along with the requirement that the grading and revegetation must blend with the contiguous area which meets the success standards.

Public Comments

The public comment periods and opportunity to request a public hearing were announced in the June 27, 1991, Federal Register (56 FR 29447 and 29448). The comment periods closed on July 29, 1991. No comments were received during the comment period, and no one requested an opportunity to testify at the scheduled public hearing so no hearing was held.

V. Director's Decision

Based on the above findings, the Director is approving with certain exceptions proposed Program Amendment Numbers 91-4 and 91-6 submitted by Indiana on May 22, and May 23, 1991, as clarified by letters from Indiana to OSM dated October 10, 1991, and March 20, 1992. As discussed in Finding 1(c), the Director is not approving the words "alone or" at sections 310 IAC 12-5-64.1(c)(3)(C) and 12-5-128.1(c)(6)(C). In addition, the Director is requiring that Indiana amend these sections to delete the words "alone or." As discussed in Finding 1(g), the Director is requiring that Indiana amend 310 IAC 12-5-64.1(g) and 12-5-

128.1(g) to clarify that "test plots" will be used with the repair of small areas and that no such small areas will be exempted from the success standards. As discussed in Finding 2, the Director is requiring that Indiana amend 310 IAC 12-5-64.2(a) by deleting subparagraph (1).

The Federal regulations at 30 CFR part 914 codifying decisions concerning the Indiana program are being amended to implement this decision. This final rule is being made effective immediately to expedite the State program amendment process and to encourage the states to conform their programs with the Federal standards without delay. Consistency of State and Federal standards is required by SMCRA.

EPA Concurrence

Under 30 CFR 732.17(h)(11)(ii), the Director is required to obtain the written concurrence of the Administrator of the Environmental Protection Agency (EPA) with respect to any provisions of a State program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). The Director has determined that these amendments contain no provisions in these categories and that EPA's concurrence is not required. However, EPA responded to the Director's request for comments and stated that EPA had no comments and that it concurred on the proposed amendments (Administrative Record No. IND-0944).

Effect of Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(a) requires that any alteration of an approved State program be submitted to OSM for review as a program amendment. Thus, any changes to the State program are not enforceable until approved by OSM. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. In his oversight of the Indiana program, the Director will recognize only the statutes, regulations and other materials approved by him, together with any consistent implementing policies, directives and other materials, and will require the enforcement by Indiana of only such provisions.

VI. Procedural Determinations

National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30

U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

Executive Order 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

Executive Order 12778

This rule has been reviewed under the principles set forth in section 2 of E.O. 12778 (56 FR 55195, October 25, 1991) on Civil Justice Reform. The Department of the Interior has determined, to the extent allowed by law, that this rule meets the applicable standards of sections 2(a) and 2(b) of E.O. 12778. Under SMCRA Section 405 and 30 CFR 884 and Section 503(a) and 30 CFR 732.15 and 732.17(h)(10), the agency decision on State program submittals must be based solely on a determination of whether the submittal is consistent with SMCRA and the Federal regulations. The only decision allowed under the law is approval, disapproval or conditional approval of State program amendments.

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under 44 U.S.C. 3507

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 27, 1992.

Jeffrey D. Jarrett,

Acting Assistant Director, Eastern Support Center.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 914—INDIANA

1. The authority citation for part 914 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 914.15 is amended by adding a new paragraph (mm) to read as follows:

§ 914.15 Approval of regulatory program amendments.

(mm) The following amendments (Program Amendment Nos. 91-4 and 91-6) to the Indiana program as submitted to OSM on May 22, and May 23, 1991, respectively, are approved, except as noted below, effective May 29, 1992: (1) 310 IAC 12-5-64.1 and 310 IAC 12-5-128.1 concerning standards for success for nonprime farmland except the words "alone or" at 310 IAC 12-5-64.1 (c)(3)(C) and (c)(6)(C) and 310 IAC 12-5-128.1 (c)(3)(C) and (c)(6)(C); (2) 310 IAC 12-5-64.2 and 310 IAC 12-5-128.2 concerning sampling techniques for nonprime farmland; (3) 310 IAC 12-5-64.3 and 310 IAC 12-5-128.3 concerning statistical methodology; and (4) Deletion of 310 IAC 12-5-64, 310 IAC 12-5-65, 310 IAC 12-5-128, and 310 IAC 12-5-129.

3. Section 914.16 is amended by adding new paragraphs (i), (j) and (k) to read as follows:

§ 914.16 Required program amendments.

(i) By November 1, 1992, Indiana must amend 310 IAC 12-5-64.1(c)(3)(C) and (c)(6)(C) and 310 IAC 12-5-128.1(c)(3)(C) and (c)(6)(C) by deleting the words "alone or."

(j) By November 1, 1992, Indiana must amend 310 IAC 12-5-64.1(g) and 12-5-128.1(g) to clarify that "test plots" will be used with the repair of small areas and that no such small areas will be exempted from the success standards.

(k) By November 1, 1992, Indiana must amend 310 IAC 12-5-64.2(a) by deleting paragraph (1).

[FR Doc. 92-12492 Filed 5-28-92; 8:45 am]

BILLING CODE 4310-05-M

Bureau of Land Management

43 CFR Public Land Order 6928

[WY-930-4214-10; WYW 28908]

Withdrawal of National Forest System Land for Crandall Creek Administrative Site, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 30 acres of National Forest System land from location and entry under the United States mining laws for a period of 20 years to protect significant capital improvements associated with the Crandall Creek Administrative Site. The land has been and remains open to surface uses authorized by the Forest Service and open to mineral leasing.

EFFECTIVE DATE: May 29, 1992.

FOR FURTHER INFORMATION CONTACT: Tamara Gertsch, BLM, Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82003, 307-775-6115.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Subject to all valid existing rights, the following described National Forest System land is hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. ch. 2 (1988)), but not from leasing under the mineral leasing laws, to protect the Forest Service's capital investments at the Crandall Creek Administrative Site:

Sixth Principal Meridian

Shoshone National Forest

T. 56 N., R. 106 W.,

Sec. 9, W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, and W $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$.

The area described contains 30 acres in Park County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the National Forest System land under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1988), the Secretary determines that the withdrawal shall be extended.

Dated: May 20, 1992.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 92-12583 Filed 5-28-92; 8:45 am]

BILLING CODE 4310-22-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 71

RIN 3067-AB83

Coastal Barrier Resources System Amendments Related to the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule amends the National Flood Insurance Program (NFIP) regulations related to the availability of flood insurance for properties located in any area within the Coastal Barrier Resources System. This interim rule is necessary to comply with section 14 of the Coastal Barrier Improvement Act of 1990, which requires that regulations to assure compliance with the provisions of the Act be promulgated, and it is intended to clarify the effective date of the prohibition against the sale of new NFIP flood insurance in the newly designated areas of the System.

DATES: Effective Date: May 29, 1992.

COMMENT DATES: Comments must be submitted on or before July 28, 1992.

ADDRESSES: Send comments or inquiries to Rules Docket Clerk, Office of the General Counsel, room 840, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Donald L. Collins, Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street, SW., Washington, DC 20472, (202) 646-3419.

SUPPLEMENTARY INFORMATION: The Coastal Barrier Improvement Act of 1990 (CBIA), Public Law 101-591, approved November 16, 1990, 16 U.S.C. 3501 *et seq.*, greatly expanded the identified land in the Coastal Barrier Resources System (CBRS) established by the Coastal Barrier Resources Act of 1982 (CBRA), 16 U.S.C. 3501 *et seq.*, and, in addition, identified areas that are not within the CBRS but are in an "otherwise protected area". The CBIA defines the term "otherwise protected area" as an undeveloped coastal barrier within the boundaries of an area established under Federal, State, or local law, or held by a qualified organization, primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes. Section 9 of the 1990 Act amended section 1321 of the National Flood Insurance Act of 1968, 42 U.S.C. 4028, to prohibit new flood insurance coverage

after November 16, 1991, for new construction or substantial improvement of structures located in areas which are not identified as being in the CBRS but are identified as being in an "otherwise protected area", except for structures that are used in a manner consistent with the purpose for which the area is protected.

Because no effective date was given in CBIA for implementing the prohibition against the sale of flood insurance in the areas newly identified as being within the CBRS, the Federal Emergency Management Agency (FEMA) has interpreted the intent of Congress to make the prohibition effective on November 16, 1990 (the date CBIA was enacted). It is, therefore, the intention of this regulation to identify the documentation which will be required to demonstrate that CBRA/CBIA do not apply to a structure located within the newly identified areas of the CBRS or located within an identified "otherwise protected area" so that it is eligible for new flood insurance coverage.

In defining "new construction" and "substantial improvement" for structures in the areas newly identified by the 1990 CBIA, FEMA has endeavored to be consistent with the definitions established for complying with the 1982 CBRA requirements. Thus, this regulation defines "new construction" within the areas newly identified by the 1990 CBIA as structures for which the start of construction took place on or after November 16, 1990.

A structure located in a coastal barrier area newly identified by the 1990 CBIA is eligible for flood insurance unless, subsequent to November 15, 1990, it is substantially improved (see 44 CFR 59.1 for the definition of "substantial improvement").

In accordance with the statutory effective date in the 1990 CBIA pertaining to "otherwise protected areas," flood insurance coverage may be provided for a building located within an identified "otherwise protected area" on which the start of construction begins after November 15, 1990, so long as the building is completed (with walls and a roof permanently in place) no later than November 16, 1991. Flood insurance coverage may also be provided for a building in an "otherwise protected area" built after November 16, 1991, if the building is used in a manner consistent with the purpose for which the area is protected.

To enable FEMA to implement these provisions in a responsible manner, the Agency is requiring some basic documentation.

(a) In order to obtain flood insurance coverage for a structure located in an area newly identified as being in the CBRS as of November 16, 1990, the owner must submit the following documentation:

(1) A legally valid building permit or equivalent documentation for the construction of the structure, dated prior to November 16, 1990. If the community did not have a building permit system at the time the structure was built, a written statement to this effect signed by the responsible community official will be accepted in lieu of the building permit. If the building permit was lost or destroyed, a written statement to this effect signed by the responsible community official will be accepted in lieu of the building permit. This statement must also include a certification that the official has inspected the structure and found no evidence that the structure was not in compliance with the building code at the time it was built;

(2) A statement signed by the community official responsible for building permits, attesting to the fact that he or she knows of his or her own knowledge or from official community records that:

(i) The start of construction of such structure took place prior to November 16, 1990; and

(ii) The structure has not been substantially improved since November 15, 1990.

(b) In order to obtain flood insurance coverage for a structure located in an area identified as an "otherwise protected area" for which the start of construction for the building was prior to November 16, 1990, the owner must submit the following documentation:

(1) A legally valid building permit or equivalent documentation for the construction of the structure, dated prior to November 16, 1990. If the community did not have a building permit system at the time the structure was built, a written statement to this effect signed by the responsible community official will be accepted in lieu of the building permit. If the building permit was lost or destroyed, a written statement to this effect signed by the responsible community official will be accepted in lieu of the building permit. This statement must also include a certification that the official has inspected the structure and found no evidence that the structure was not in compliance with the building code at the time it was built;

(2) A statement signed by the community official responsible for building permits, attesting to the fact that he or she knows of his or her own

knowledge or from official community records that:

(i) The start of construction of such structure took place prior to November 16, 1990; and

(ii) The structure has not been substantially improved since November 16, 1991.

(c) In order to obtain flood insurance coverage for a structure located in an area identified as an "otherwise protected area" for which the start of construction for the building began after November 15, 1990, but was completed with the walls and a roof permanently in place no later than November 16, 1991, the owner must submit the following documentation:

(1) A legally valid building permit or equivalent documentation for the construction of the structure, dated prior to November 16, 1991. If the community did not have a building permit system at the time the structure was built, a written statement to this effect signed by the responsible community official will be accepted in lieu of the building permit. If the building permit was lost or destroyed, a written statement to this effect signed by the responsible community official will be accepted in lieu of the building permit. This statement must also include a certification that the official has inspected the structure and found no evidence that the structure was not in compliance with the building code at the time it was built;

(2) A statement signed by the community official responsible for building permits, attesting to the fact that he or she knows of his or her own knowledge or from official community records that:

(i) The structure constituted an insurable building, having walls and a roof permanently in place no later than November 16, 1991; and

(ii) The structure has not been substantially improved since November 16, 1991.

(3) A community issued final certificate of occupancy or other use permit or equivalent proof certifying that the building was completed (walled and roofed) by November 16, 1991. Equivalent proof may include, for example, evidence of final inspection of the building's electrical system; a deed, together with closing or settlement documents establishing that the title was transferred as to the land and improvement by November 16, 1991, etc.

A structure located in an area identified as an "otherwise protected area" not eligible for insurance under the conditions listed above may nonetheless be eligible for flood insurance if the owner submits a written

statement from the governmental body or qualified organization overseeing the "otherwise protected area" certifying that the building is used in a manner consistent with the purpose for which the area is protected.

Considerable time was spent analyzing this complicated piece of legislation, particularly the issue related to the effective date for the prohibition of new flood insurance in the areas newly identified as being in the CBRS. As a result, in order to comply with section 14 of the 1990 Act, which requires that regulations to assure compliance with the provisions of the Act be promulgated by November 16, 1991, these regulations are being implemented as an interim rule. Nevertheless, comments are requested and will be considered before further regulations are issued.

National Environmental Policy Act

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4371 *et seq.*, and the implementing regulations of the Council on Environmental Quality, 40 CFR parts 1500-1508, FEMA has prepared an environmental assessment of the issuance by FEMA of this interim rule. The assessment concludes that there will be no significant impact on the natural or manmade environment as a result of the definitions in this interim rule or the documentation to be required. It is, therefore, found that the action will not have a significant impact on the natural or manmade environment. On this basis, an Environmental Impact Statement will not be prepared. Copies of the environmental assessment are available for inspection at the Federal Emergency Management Agency, room 840, 500 C St., SW., Washington, DC 20472.

Regulatory Flexibility Act

This rule is not a major rule under Executive Order 12291, Federal Regulation, February 17, 1981. No regulatory impact analysis has been prepared.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

Paperwork Reduction Act

The documentation requirements of 44 CFR 71.4 are collections of information, were submitted to the Office of Management and Budget (OMB) and were approved in accordance with the Paperwork Reduction Act of 1980, as amended, 44 U.S.C. 3501 *et seq.* under OMB control number 3067-0120.

The recordkeeping and reporting burdens for the documentation requirements are estimated to average 1.5 hours per respondent. These include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. FEMA requests that commenters address these estimates as part of their comments submitted to the rulemaking record at the address indicated at the beginning of this interim rule. Comments on the paperwork issues including the burden estimates and any aspects of the information collection requirements should also be sent to the Office of Management and Budget, Paperwork Reduction Project (3067-0120), 3235 New Executive Office Building, Washington, DC 20503.

List of Subjects in 44 CFR Part 71

Coastal zone, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 71 is amended as follows:

1. The authority citation for part 71 is revised to read as follows:

Authority: 42 U.S.C. 4001, *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376; 42 U.S.C. 4028; §§ 9 and 14, Pub. L. 101-591, 42 U.S.C. 4028(b).

2. The heading for part 71 is revised to read as follows:

PART 71—IMPLEMENTATION OF COASTAL BARRIER LEGISLATION

§ 71.1 [Amended]

3. Section 71.1 is amended by revising the phrase "(Pub. L. 97-348) as that Act amends" to read "(Pub. L. 97-348) and section 9 of the Coastal Barrier Improvement Act of 1990 (Pub. L. 101-591), as those Acts amend"; and by revising "(42 U.S.C. 400a *et seq.*)" to read "(42 U.S.C. 4001 *et seq.*)".

§ 71.2 [Amended]

4. Section 71.2 is amended by revising paragraphs (b) introductory text through (d) and adding paragraphs (e) through (k) to read as follows:

§ 71.2 Definitions.

(b) For the purpose of this part, a structure located in an area identified as being in the Coastal Barrier Resources System (CBRS) both as of October 18, 1982, and as of November 16, 1990, is "new construction" unless it meets the following criteria:

(c) For the purpose of this part, a structure located in an area newly identified as being in the CBRS as of November 16, 1990, is "new construction" unless it meets the following criteria:

(1) A legally valid building permit or equivalent documentation was obtained for the construction of such structure prior to November 16, 1990; and

(2) The start of construction (see 44 CFR part 59) took place prior to November 16, 1990.

(d) For the purpose of this part, a structure located in an "otherwise protected area" is "new construction" unless it meets the following criteria:

(1)(i) A legally valid building permit or equivalent documentation was obtained for the construction of such structure prior to November 16, 1990; and

(ii) The start of construction took place prior to November 16, 1990; or

(2)(i) A legally valid building permit or equivalent documentation was obtained for the construction of such structure prior to November 16, 1991; and

(ii) The structure constituted an insurable building, having walls and a roof permanently in place, no later than November 16, 1991.

(e) For the purpose of this part, a structure located in an area identified as being in the CBRS both as of October 18, 1982, and as of November 16, 1990, is a "substantial improvement" if the substantial improvement (see 44 CFR part 59) of such structure took place on or after October 1, 1983.

(f) For the purpose of this part, a structure located in an area newly identified as being in the CBRS as of November 16, 1990, is a "substantial improvement" if the substantial improvement of such structure took place on or after November 16, 1990.

(g) For the purpose of this part, a structure located in an "otherwise protected area" is a "substantial improvement" if the substantial improvement of such structure took place after November 16, 1991.

(h) For the purpose of this part, a "policy of flood insurance" means a policy issued pursuant to the National Flood Insurance Act of 1968, as amended. This includes a policy issued directly by the Federal Government as well as by a private sector insurance company under the Write Your Own

Program as authorized by 44 CFR part 62.

(i) For the purpose of this part, "new policy of flood insurance" means a policy of flood insurance other than one issued by an insurer (Write Your Own insurer or the Federal Government as the direct insurer) effective upon the expiration of a prior policy of flood insurance issued by the same insurer without any lapse in coverage between these two policies.

(j) For the purpose of this part, "new flood insurance coverage" means a new or renewed policy of flood insurance.

(k) For the purpose of this part, "otherwise protected area" means an undeveloped coastal barrier within the boundaries of an area established under Federal, State, or local law, or held by a qualified organization, primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes and identified and depicted on the maps referred to in section 4(a) of the Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990, as an area that is:

(1) Not within the CBRS and

(2) In an "otherwise protected area."

5. Section 71.3 is revised to read as follows:

§ 71.3 Denial of flood insurance.

(a) No new flood insurance coverage may be provided on or after October 1, 1983, for any new construction or substantial improvement of a structure located in an area identified as being in the CBRS both as of October 18, 1982, and as of November 16, 1990.

(b) No new flood insurance coverage may be provided on or after November 16, 1990, for any new construction or substantial improvement of a structure located in any area newly identified as being in the CBRS as of November 16, 1990.

(c) No new flood insurance coverage may be provided after November 16, 1991, for any new construction or substantial improvement of a structure which is located in an "otherwise protected area."

(d) Notwithstanding paragraph (c) of this section, new flood insurance coverage may be provided for a structure which is newly constructed or substantially improved in an "otherwise protected area" if the building is used in a manner consistent with the purpose for which the area is protected.

6. Section 71.4 is amended by revising paragraphs (a), (b), (c) introductory text, and (d) introductory text, and adding paragraphs (e) through (h) to read as follows:

§ 71.4 Documentation.

(a) In order to obtain a new policy of flood insurance for a structure which is located in an area identified as being in the CBRS as of November 16, 1990, or in order to obtain a new policy of flood insurance after November 16, 1991, for a structure located in an "otherwise protected area," the owner of the structure must submit the documentation described in this section in order to show that such structure is eligible to receive flood insurance. However, if the new policy of flood insurance is being obtained from an insurer (Write Your Own or the Federal Government as direct insurer) that has previously obtained the documentation described in this section, the property owner need only submit a signed written certification that the structure has not been substantially improved since the date of the previous documentation.

(b) The documentation must be submitted along with the application for the flood insurance policy.

(c) For a structure located in an area identified as being in the CBRS both as of October 18, 1982, and as of November 16, 1990, where the start of construction of the structure took place prior to October 18, 1982, the documentation shall consist of:

* * * * *

(d) For a structure located in an area identified as being in the CBRS both as of October 18, 1982, and as of November 16, 1990, where the start of construction of the structure took place on or after October 18, 1982, but the structure was completed (walls and roof permanently in place) prior to October 1, 1983, the documentation shall consist of:

* * * * *

(e) For a structure located in an area newly identified as being in the CBRS as of November 16, 1990, where the start of construction of the structure took place prior to November 16, 1990, the documentation shall consist of:

(1) A legally valid building permit or its equivalent for the construction of the structure, dated prior to November 16, 1990.

(i) If the community did not have a building permit system at the time the structure was built, a written statement to this effect signed by the responsible community official will be accepted in lieu of the building permit;

(ii) If the building permit was lost or destroyed, a written statement to this effect signed by the responsible community official will be accepted in lieu of the building permit. This statement must also include a certification that the official has

inspected the structure and found no evidence that the structure was not in compliance with the building code at the time it was built; and

(2) A written statement signed by the community official responsible for building permits, attesting to the fact that he or she knows of his or her own knowledge or from official community records, that:

(i) The start of construction took place prior to November 16, 1990; and

(ii) The structure has not been substantially improved since November 15, 1990.

(f) For a structure located in an area identified as an "otherwise protected area" where the start of construction of the structure took place prior to November 16, 1990, the documentation shall consist of:

(1) A legally valid building permit or its equivalent for the construction of the structure, dated prior to November 16, 1990.

(i) If the community did not have a building permit system at the time the structure was built, a written statement to this effect signed by the responsible community official will be accepted in lieu of the building permit;

(ii) If the building permit was lost or destroyed, a written statement to this effect signed by the responsible community official will be accepted in lieu of the building permit. This statement must also include a certification that the official has inspected the structure and found no evidence that the structure was not in compliance with the building code at the time it was built; and

(2) A written statement signed by the community official responsible for building permits, attesting to the fact that he or she knows of his or her own knowledge or from official community records, that:

(i) The start of construction took place prior to November 16, 1990; and

(ii) The structure has not been substantially improved since November 16, 1991.

(g) For a structure located in an area identified as an "otherwise protected area" where the start of construction of the structure took place after November 15, 1990, but construction was completed with the walls and a roof permanently in place no later than November 16, 1991, the documentation shall consist of:

(1) A legally valid building permit or its equivalent for the construction of the structure, dated prior to November 16, 1991.

(i) If the community did not have a building permit system at the time the structure was built, a written statement

to this effect signed by the responsible community official will be accepted in lieu of the building permit;

(ii) If the building permit was lost or destroyed, a written statement to this effect signed by the responsible community official will be accepted in lieu of the building permit. This statement must also include a certification that the official has inspected the structure and found no evidence that the structure was not in compliance with the building code at the time it was built; and

(2) A statement signed by the community official responsible for building permits, attesting to the fact that he or she knows of his or her own knowledge or from official community records that:

(i) The structure constituted an insurable building, having walls and a roof permanently in place, no later than November 16, 1991; and

(ii) The structure has not been substantially improved since November 16, 1991; and

(3) A community issued final certificate of occupancy or other use permit or equivalent proof certifying that the building was completed (walled and roofed) by November 16, 1991.

(h) For a structure located in an area identified as an "otherwise protected area" for which the documentation requirements of neither paragraph (f) nor paragraph (g) of this section have been met, the documentation shall consist of a written statement from the governmental body or qualified organization overseeing the "otherwise protected area" certifying that the building is used in a manner consistent with the purpose for which the area is protected.

Dated: May 5, 1992.

C.M. "Bud" Schauerte,
Administrator, Federal Insurance
Administration.

[FR Doc. 92-12409 Filed 5-28-92; 8:45 am]

BILLING CODE 6718-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 44 and 45

[CGD 92-033]

Special Service Great Lakes Limited Domestic Load Line

AGENCY: Coast Guard, DOT.

ACTION: Notice of exemption and request for comments.

SUMMARY: The Port of Milwaukee requested approval of a special service limited domestic load line for certain unmanned barges carrying nonhazardous cargoes. These barges are to operate between Chicago, Illinois and Milwaukee, Wisconsin. The Coast Guard has determined that the barges may be issued a special service limited domestic load line, to be implemented on a case-by-case basis, by vessel, subject to special operating and certification requirements. This notice is intended to advise members of the maritime community and to request public comment.

DATES: This notice is effective on May 29, 1992. Comments must be received on or before June 29, 1992.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA/3406) (CGD 92-033), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or may be delivered to room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Keith Dabney, Office of Marine Safety, Security and Environmental Protection, U.S. Coast Guard (G-MTH-3), room 1308, 2100 Second Street NW., Washington, DC 20593-0001. Telephone (202) 267-2988.

SUPPLEMENTARY INFORMATION:

Request for Comments

Public comments are requested in order to provide information for an evaluation of the policy described in this notice and in order to evaluate any similar requests in the future. The Coast Guard encourages interested persons to submit written data, views, or arguments. Persons submitting comments should include their name and address, identify this notice (CGD 92-033) and the specific provision to which each comment applies, and give a reason for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

Comments must be received not later than 30 days after the effective date specified under "DATES," above.

Background and Purpose

Section 45.15(d) of title 46 of the Code of Federal Regulations allows exemptions from load line and marking requirements for unmanned river service dry cargo barges operated between Calumet Harbor, Chicago, Illinois and Burns Harbor, Indiana and intermediate

ports in Lake Michigan. The exemptions are subject to the certification and special operating requirements listed in subpart E of 46 CFR part 45. A similar variance has been requested by the Port of Milwaukee for unmanned barges carrying nonhazardous cargoes on a route from Calumet Harbor, Chicago, Illinois to Milwaukee, Wisconsin.

The Coast Guard does not believe that a blanket exemption should be established for the Calumet Harbor-Milwaukee route. However, based on information provided by the Port of Milwaukee and the recommendations of the American Bureau of Shipping (ABS), and due to the sheltered nature of the voyage along the requested route, the Coast Guard has determined that sufficient reason exists to make available a Special Service Limited Domestic Voyage Load Line Certificate for vessels, on a case-by-case basis, so long as certain special operating and certification requirements are met. Authority exists under 46 CFR part 44 to provide such a Special Service Limited Domestic Voyage Load Line Certificate. The certificate would be available for vessels that operate between Calumet Harbor, Chicago, Illinois and Milwaukee, Wisconsin, and intermediate ports.

The requirements for the granting of such a certificate are set forth in this notice. They consist of essentially all of the requirements for unmanned river service dry cargo barges contained in 46 CFR part 45, subpart E (Calumet Harbor-Burns Harbor route), in addition to certain operating restrictions. The certificate requirements, and additional operating and certification restrictions, which will appear on the load line certificates, are:

1. The certificates shall be valid only for unmanned river dry cargo barges.

2. Vessel operation is limited to voyages between Calumet Harbor, Chicago, Illinois, and Milwaukee, Wisconsin. Vessels may make stops along any ports of call along this route.

3. No hazardous materials, as defined in 46 CFR part 148 or 49 CFR subchapter C, will be carried. Cargoes to be carried are limited to dry commodities, such as steel products, heavy machinery, dry bulk fertilizer, grain, bulk cement, scrap materials, and forest products.

4. The towing vessel shall have adequate horsepower to handle the size of the tow, with a minimum of 1,000 horsepower for three barges.

5. Before commencement of any voyage, the towing vessel operator shall ensure the following:

(a) Deck and side shell plating must be free of visible holes, fractures, or

serious indentations as well as damage that would be considered in excess of normal wear and tear.

(b) Cargo box side and end coamings must be watertight.

(c) All manholes must remain covered and secured watertight.

6. The towing vessel shall maintain radio contact with the local weather radio network.

7. Prior to getting underway for a voyage between Calumet Harbor, Chicago and Milwaukee, the towing vessel operator must determine the weather expected along the proposed route. When environmental conditions are expected to exceed the following wind speed and wave height limits, the towing vessel is not authorized to leave harbor.

| Wind direction | Continuous velocity (knots) | Wave height (feet) |
|----------------|-----------------------------|--------------------|
| SE, E, NE..... | 15 | 4 |
| SW, W, NW..... | 20 | 4 |
| N, S..... | 20 | 4 |

While underway between Calumet Harbor, Chicago and Milwaukee, if environmental conditions exceed the above limits, the towing vessel must proceed immediately to a harbor of safe refuge.

8. The distance from shore during the course of the voyage shall not exceed five miles.

In determining the geographical and environmental limits, consideration was given to expected weather and sea conditions. Whether and sea conditions are the prevailing conditions for the geographic limits of the routes specified above. Data collected and analyzed by the National Oceanic and Atmospheric Administration (NOAA) in its report, "Wave Climatology for the Great Lakes," indicates that on an annual basis wave heights of less than 4 feet would be encountered over 75 percent of the time. The data in this NOAA report also show that, on a monthly basis, the wave heights would be greater than 4 feet as follows:

| Month | Percent time wave height greater than 4 feet |
|---------------|--|
| January..... | 28 |
| February..... | 32 |

| Month | Percent time wave height greater than 4 feet |
|----------------|--|
| March..... | 27 |
| April..... | 15 |
| May..... | 10 |
| June..... | 5 |
| July..... | 8 |
| August..... | 14 |
| September..... | 19 |
| October..... | 31 |
| November..... | 25 |
| December..... | 34 |

Determination of the 4-foot limiting wave condition was based on opinions received by the Port of Milwaukee from operators experienced in tug-barge operations on the Great Lakes.

In determining a vessel's suitability for assignment of a load line, the following variances to conditions apply:

1. The barge length to depth ratio shall not exceed 22.

2. Evidence must be provided to ABS that demonstrates that the barge was built, and has been maintained, to the minimum scantlings of the ABS River Rules that were in effect at the time of construction.

3. The assigned freeboard shall be at least 24 inches. For open hopper barges, the combined operating freeboard plus the height of cargo box coamings shall be at least 54 inches.

A vessel which meets all of the foregoing requirements for a special service limited domestic load line, will be eligible for a Special Service Limited Domestic Voyage Loan Line Certificate. An initial load line survey with subsequent yearly inspections will be required to determine compliance with the above requirements as well as the condition of all watertight openings and closures and the structural integrity of the vessel.

The ABS has been authorized to issue load line certificates on behalf of the Coast Guard in accordance with the requirements set forth in this notice.

Dated: May 18, 1992.

A. E. Henn,
Rear Admiral, U.S. Coast Guard Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 92-12414 Filed 5-28-92; 8:45 am]

BILLING CODE 4910-14-M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 522 and 552

[APD 2800.12A CHGE 38]

General Services Administration Acquisition Regulation; Price Adjustment Clause for Service Contracts

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR), Chapter 5 (APD 2800.12A) is amended to revise section 522.1006 to prescribe a Fair Labor Standards Act and Service Contract Act—Price Adjustment clause for use in lieu of the FAR clause at 52.222-43. The change also provides for use of an Alternate to the basic clause which provides a formula for computing adjustments to certain building service contracts that are not expected to exceed \$100,000 per annum. The text of the Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts) clause in section 552.222-43 is revised to eliminate the ceiling on recoverable cost increases during out years of multiple year contracts or option years. Instead of a ceiling, the clause substitutes a requirement that the contractor refund to the Government that portion of any payments made under the contract as a result of a price adjustment when the increase claimed by the contractor is based on a wage determination that reflects the wages and fringe benefits provided for in a collective bargaining agreement which is determined, in accordance with 29 CFR part 4, not to have been negotiated at arms-length or to be at substantial variance with the wages and/or fringe benefits which prevail for services of a similar character in the locality. The requirement that the contractor return portions of payments to refund wages at variance is only applicable to those wage determinations based on collective bargaining agreements negotiated and entered into by the contractor which are only applicable to work performed on one or more Federal contracts. The revised clause also addresses certain ambiguities in the FAR clause which have been problematic. The basic clause and Alternate would be used instead of the FAR clause at 52.222-43, Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year

and Option Contracts) pursuant to a class deviation to the Federal Acquisition Regulation (FAR) approved in accordance with 48 CFR 1.404.

EFFECTIVE DATE: June 1, 1992.

Solicitations issued on or after June 1, 1992, shall include the revised clause at 552.222-43. Solicitations issued under sealed bidding procedures with bid opening scheduled on or after June 1, 1992, shall be amended to include the revised clause. Solicitations issued under negotiated procurement procedures shall be amended if the award will be made on or after June 1, 1992. Building service contracts which contain the June 1986 version of the clause at GSAR 552.222-43 shall be modified to replace that clause with the June 1992 version of the clause if the contractor agrees to such modification.

FOR FURTHER INFORMATION CONTACT: Ida Ustad, Office of GSA Acquisition Policy, (202) 501-1224.

SUPPLEMENTARY INFORMATION:

A. Public Comments

A notice of proposed rulemaking was published in the *Federal Register* on February 19, 1991 (56 FR 6600). Comments were received from the Service Employees International Union, AFL-CIO; the Laborers' International Union of North America, AFL-CIO; the American Federation of Labor and Congress of Industrial Organizations; and the Institute of Real Estate Management. These public comments, and comments received from GSA contracting activities, were considered in formulating the final rule. The public commentators generally opposed the rule and made seven points in their arguments in opposition to the proposed rule. The seven points and GSA's responses are:

1. GSA is without authority to promulgate the proposed rule.

The commentators assert that GSA is promulgating the rule under the Federal Property and Administrative Services Act (FPASA) (40 U.S.C. 486(c)) and that under the Act the Administrator of General Services is authorized to "prescribe such regulations as he deems necessary to effectuate his functions under this Act * * *." The commentators contend that nowhere in the Act is the Administrator or any other GSA official given the authority to interpret, effectuate, or enforce the Service Contract Act (SCA). That function is lodged by statute solely in the Secretary of Labor under 41 U.S.C. 353(a).

The SCA principally requires the payment of minimum wage rates, as determined by the Secretary of Labor, to

service employees employed under contracts for which the principal purpose is to furnish services to the Government. See 41 U.S.C. 351. The SCA does not address the extent to which, if at all, a contractor should be reimbursed by the Government as the result of any increase in wage rates during the performance of a Government contract. The Department of Labor regulations addressing the effect of SCA wage determinations on option periods do not address the issue. See 29 CFR 4.145(b).

The SCA only governs wage rates to be paid service employees under Government contracts. The FAR clause at 52.222-43 and the GSA deviation, therefore, merely govern what portion of cost increases are recoverable by the contractor in a price adjustment and, therefore, are a matter of procurement policy which is within the authority of GSA.

2. The proposed rule is contrary to law.

The commentators contend that the proposed rule is directly contrary to section 4(c) of the SCA and its issuance is precluded by law. Section 4(c) of the SCA provides that a successor contractor is relieved of its obligation to pay the collectively bargained wages and fringe benefits of the predecessor only "if the Secretary finds after a hearing * * * that such wages and fringe benefits are substantially at variance with those which prevail for services of a similar character in the locality." The Secretary of Labor has issued regulations which provide for such determinations to be applied prospectively. The commentators view the provision of the GSA clause requiring the contractor to refund to the Government that portion of payments, if any, that results from a price adjustment based on a collective bargaining agreement later found to be at variance to be contrary to the law.

The GSA clause merely governs what portion of cost increases are recoverable by the contractor in a price adjustment. The GSA clause does not alter the requirement that the contractor pay the service employees the wages and fringe benefits to which they are entitled under the SCA. The contractor must comply with the SCA regardless of whether the contractor can recover the cost from the Government through a price adjustment. GSA has added language to the clause in the final rule making it clear that nothing in the clause shall be construed to modify a contractor's obligation under a collective bargaining agreement.

3. The proposed rule ignores the remedial purposes of the SCA.

The commentators contend that GSA bases the proposed rule on the notion

that the Government should seek the lowest possible labor cost. According to the commentators, GSA's rule fails to take into account either the remedial nature of the SCA or the national procurement policies established by Congress through that statute.

The assertion that GSA's objective is to seek the lowest possible labor cost is simply not accurate. GSA is committed to implementing the SCA and supports the remedial purposes of the SCA. However, the agency is also committed to safeguarding the interests of the U.S. taxpayers. GSA wants its services contractors to pay employees wages and fringe benefits that are reflective of those prevailing in the locality where the work is performed. The agency's objective is simply to provide an incentive for contractors, who would otherwise not have an incentive, to negotiate in a meaningful way with unions seeking to enter into a collective bargaining agreement. Contractors that have a substantial commercial business base with employees in the same collective bargaining unit have an incentive to bargain in order to remain competitive. However, contractors that negotiate with collective bargaining units that only involve employees working on Government contracts have no meaningful incentive for effective negotiations if the contractor knows that the Government will automatically increase the contract price to cover any resulting labor cost increase.

4. There is no need or justification for the rule.

The commentator asserts that the variance process is, by itself, adequate to protect against potential abuses posed by section 4(c) of the SCA. GSA experience with the variance process indicates otherwise. In most, if not all, cases by the time the case is decided by the Department of Labor under the variance process, the outcome is moot because the contract has been completed. Until the variance process is substantially changed to provide for timely resolution of requests for variance hearings, GSA believes there is a need for the rule. GSA has made certain recommendations to the Department of Labor for revising the regulations regarding the variance process to provide for more timely action. If the Department of Labor acts on those recommendations or otherwise acts to provide a system for timely resolution of issues concerning variances, GSA will re-examine the need for this rule.

5. The proposed regulation interferes with workers' rights to organize under

section 7 of the National Labor Relations Act.

The commentators contend the regulation will have a severe effect on the ability of workers to exercise their rights to organize under the National Labor Relations Act, rights which Congress has expressly sanctioned in connection with Federal service workers. The limitation on the contractors' ability to fully recover the cost of increases in wages and fringe benefits is viewed as interference with meaningful collective bargaining.

GSA does not believe such limitation interferes with worker's rights to organize or interferes with meaningful collective bargaining. In the abstract, a limit on the amount of increased wages that can be passed through to the Government in a price adjustment presents a situation no different from that faced by an employer in the private sector who must bear a degree of risk with respect to its own labor costs in establishing its contractual prices for goods and services.

6. The proposed regulation will be ineffective, unfair and arbitrary.

The commentators believe the regulation will have the bizarre result of penalizing contractors that were wholly uninvolved in negotiating the wage rates which GSA finds objectionable.

GSA's intent was to require the contractor that entered into the agreement to repay the Government. It did not intend for a contractor that may have succeeded a contractor who signed an agreement to be responsible for the repayment. The language of the proposed rule may not have been as clear as it might have been on this point. The final rule more clearly reflects the agency's intent. Specifically, paragraph (g) of the clause has been revised.

7. The rule violates the FAR requirement that the General Services Administration Acquisition Regulation (GSAR) be limited to rules which satisfy the specific needs of GSA.

The commentators assert that the GSA regulation violates 48 CFR 1.302. The referenced section limits agencies' authority to issue acquisition regulations to (1) those necessary to implement FAR policies and procedures with the agency and (2) additional policies, procedures, solicitation provisions, or contract clauses that supplement the FAR to satisfy the specific needs of the agency.

GSA awards hundreds of services contracts each year that are subject to the SCA. Many of these contracts involve performance of work at GSA-controlled facilities by contractors that have no commercial market and deal only with the Government. This situation requires the rule to be issued to

address the specific needs of GSA. However, GSA recognizes the rule may have application to other agencies and has recommended that the Civilian Agency Acquisition Council evaluate the need for a revision to the FAR.

B. Executive Order 12291

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule.

C. Regulatory Flexibility Act

The rule is not expected to have an economic impact on a substantial number of small entities as defined under the Regulatory Flexibility Act. An initial regulatory flexibility analysis was prepared and submitted to the Chief Counsel for Advocacy of the Small Business Administration. Copies of the initial regulatory flexibility analysis were made available for public comment. No comments were received on the impact of the rule on small business. The final regulatory flexibility analysis indicates that the rule will affect contractors that are awarded multiple year service contracts or service contracts with options to extend the period of performance, that are Service Contract Act (SCA) covered contracts. GSA awarded approximately 413 SCA covered contracts over \$25,000 valued at approximately \$127 million during Fiscal Year 1991. Approximately seventy two percent of the contracts were awarded to small business concerns. The final regulatory flexibility analysis has been submitted to the Chief Counsel for Advocacy of the Small Business Administration. Copies of the final regulatory analysis are available from the office identified above.

D. Paperwork Reduction Act

This rule does not contain information collection requirements that require the approval of OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501).

List of Subjects in 48 CFR Parts 522 and 552

Government procurement.

48 CFR 522 and 552 are amended as follows:

PART 522—[AMENDED]

1. The authority citation for 48 CFR parts 522 and 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

Subpart 522.10—Service Contract Act of 1965

2. Section 522.1006 is amended by revising paragraphs (b) and (c) to read as follows:

522.1006 Clauses for contracts over \$2,500.

(b) The contracting officer shall insert the clause at 522.222-43, Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts), in solicitations and contracts instead of the FAR clause at 52.222-43. The clause is to be included in solicitations and contracts if the contract is expected to be a fixed-price service contract containing the clause at 52.222-41, Service Contract Act of 1965, as amended, and is a multiple-year contract or a contract with options to renew which exceeds the small purchase limitation. The clause may be used in contracts that do not exceed the small purchase limitation. Contracting officers in the Public Buildings Service may use the clause with its Alternate I in building service contracts for which the Assistant Commissioner for Procurement (PP) has established a percentage of the contract price to be adjusted if the contract is not expected to exceed \$100,000 per annum.

(c) If an economic price adjustment clause is developed under FAR 16.203-4 and included in a solicitation and contract, the contracting officer must ensure the clause does not conflict with or duplicate payment under the clause prescribed in 522.1006(b) or FAR 22.1006(c)(2).

PART 552—[AMENDED]

Subpart 552.2—Text of Provisions and Clauses

3. Section 552.222-43 is revised to read as follows:

552.222-43 Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts).

As prescribed in 522.1006(b), insert the following clause:

Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts) (June 1992) (Deviation FAR 52.222-43)

(a) This clause applies to both contracts subject to area prevailing wage determinations and contracts subject to collective bargaining agreements.

(b) The Contractor warrants that the prices in this contract do not include any allowance for any contingency to cover increased costs for which adjustment is provided under this clause. Except as specified below, contingencies include future labor cost increases mandated by operation of law

which are not known at the time the offer is submitted. They do not include those increases in wages and fringe benefits included in the wage determination specified in the solicitation or resulting from an agreement between the Contractor and its employees or their representative which are known at the time the offer is submitted.

(c) The wage determination, issued under the Service Contract Act of 1965, as amended (41 U.S.C. 351, et seq.), by the Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, current on the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract. If no such determination has been made applicable to this contract, then the Federal minimum wage as established by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206), current on the anniversary date of a multiple year contract or the beginning of each renewal option period, shall apply to this contract.

(d) The contract price or contract unit price labor rates will be adjusted to reflect the Contractor's actual increase or decrease in applicable wages and fringe benefits to the extent that the increase is made to comply with or the decrease is voluntarily made by the Contractor as a result of:

(1) The Department of Labor wage determination applicable on the anniversary date of the multiple year contract, or at the beginning of the renewal option period. For example, the prior year wage determination required a minimum wage rate of \$4.00 per hour. The Contractor chose to pay \$4.10. The new wage determination increases the minimum rate to \$4.50 per hour. Even if the Contractor voluntarily increases the rate to \$4.75 per hour, the allowable price adjustment is \$.40 per hour;

(2) An increased or decreased wage determination otherwise applied to the contract by operation of law; or

(3) An amendment to the Fair Labor Standards Act of 1938 that is enacted after award of this contract, affects the minimum wage, and becomes applicable to this contract under law.

(e) Any adjustment will be limited to increases or decreases in wages and fringe benefits as described in paragraph (c) of this clause, and the accompanying increases or decreases in social security and unemployment taxes and workers' compensation insurance, but shall not otherwise include any amount for rate increases in social security, unemployment taxes or workers' compensation insurance or in general and administrative costs, overhead, or profit. Rate increases shall not be considered contingencies under paragraph (b) above.

(f) The Contractor shall notify the Contracting Officer of any increase claimed under this clause within 30 days after receiving a new wage determination unless this notification period is extended in writing by the Contracting Officer. The Contractor shall submit written statements and pertinent evidence to support the amount claimed, such as (1) the contractor's original worksheets and other data used in preparing the offer, (2)

payroll records to demonstrate that wage rates shown on original worksheets were actually paid, and (3) any other evidence requested by the contracting officer or that would serve to establish the basis for the amount claimed. The Contractor shall notify the Contracting Officer of any decrease in wages paid to service employees employed in the performance of this contract by the Contractor or any subcontractor as a result of the application of a decreased wage determination to this contract. The notice shall be provided within 30 days after the effective date of the decrease in wages paid. The Government may adjust the contract price downward to reflect the decrease in wages. The contractor shall provide relevant data, including payroll records, that the Contracting Officer may reasonably require in order to determine the amount of the downward adjustment. Upon agreement of the parties, the contract price and/or contract unit price(s) shall be modified in writing. The Contractor shall continue performance pending agreement on or determination of any such adjustment. The adjustment shall be effective on the anniversary date of a multiple year contract or the beginning of each renewal option period.

(g) The Contractor agrees to refund to the Government that portion of any payments made under this contract, if any, as a result of a price adjustment under paragraph (d) when the increase claimed by the Contractor is based on a wage determination that reflects the wages and fringe benefits provided for in a collective bargaining agreement which is determined, in accordance with the variance procedures in 29 CFR part 4, not to have been negotiated at arms-length, or to be at substantial variance with the wages and/or fringe benefits which prevail for services of a similar character in the locality. This agreement to refund wages at variance is only applicable to those wage determinations based on collective bargaining agreements negotiated and entered into by the contractor which are only applicable to work performed on one or more Federal contracts. The amount of the refund shall be computed by comparing the collectively bargained wages and fringe benefits with the wages and fringe benefits contained in the determination, established by the Secretary of Labor under sections 2(a)(1), 2(a)(2) and 4(c) of the Service Contract Act, to be paid employees instead of the wages and/or fringe benefits in the collective bargaining agreement. Nothing in this clause shall be construed to modify a Contractor's obligation under a collective bargaining agreement. The Contractor may refund the amount due the Government by payment in a form acceptable to the Contracting Officer or by reducing the amount of future invoices.

(h) The Contracting Officer or an authorized representative shall have access to and the right to examine any directly pertinent books, documents, papers and records of the Contractor until the expiration of 3 years after final payment under the contract.

(End of Clause)

Alternate I (JUNE 1992)

The Contracting Officer shall, as prescribed in 522.1006(b), delete paragraph

(d) of the basic clause and substitute the following paragraph (d), redesignate paragraph (e) of the basic clause as paragraph (f) and insert the following paragraph (e), delete paragraph (f) of the basic clause and substitute the following paragraph (g), and redesignate paragraphs (g) and (h) of the basic clause as paragraphs (h) and (i).

(d) The contract price or contract unit price labor rates will be adjusted to reflect the Contractor's actual percentage increase or decrease in applicable wages and fringe benefits to the extent that the increase is made to comply with or the decrease is voluntarily made by the Contractor as a result of a Department of Labor wage determination. In determining the percentage of increase or decrease in labor costs, the Department of Labor wage determination being applied on the anniversary date of a multiple year contract or at the beginning of the renewal option period will be compared with the actual hourly wage and fringe benefits being paid by the Contractor for each class of employee. The difference between the wages and fringe benefits will be converted to a percentage by the Contracting Officer. * percent of the ** price for the option or multiple year period will be adjusted based on the percentage of increase or decrease in the minimum hourly wages and fringe benefits to be paid under this contract. For example, the prior year wage determination required a minimum wage rate of \$4.00 per hour. The Contractor chose to pay \$4.10. The new wage determination increases the minimum rate to \$4.50 per hour. Even if the Contractor voluntarily increases the rate to \$4.75 per hour, the allowable price adjustment is \$.40 per hour or 10 percent.

(e) The contract price will also be adjusted upward or downward by the Contracting Officer, using the formula in paragraph (d), to reflect:

(1) An increased or decreased wage determination otherwise applied to the contract by operation of law; or

(2) An amendment to the Fair Labor Standards Act of 1938 that is enacted after award of this contract, affects the minimum wage, and becomes applicable to this contract under law.

(g) The Contractor shall notify the Contracting Officer that an increase is being claimed under this clause within 30 days after receiving a new wage determination unless this notification period is extended in writing by the Contracting Officer. The Contractor shall submit payroll records to demonstrate the wage rates and fringe benefits being paid and request the Contracting Officer adjust the contract price in accordance with the formula provided in paragraph (d) of the clause. The Contractor shall notify the Contracting Officer of any decrease in wages paid to service employees employed in the performance of this contract by the contractor or any subcontractor as a result of the application of a decreased wage determination to this contract. The notice shall be provided within 30 days after the effective date of the decrease in wages paid. The Government may adjust the contract price downward to reflect the decrease in

wages. The contractor shall provide payroll records for the Contracting Officer's use in calculating the amount of the downward adjustment in accordance with the formula provided in paragraph (d) of this clause. Upon agreement of the parties, the contract price and/or contract unit price(s) shall be modified in writing. The Contractor shall continue performance pending agreement on or determination of any such adjustment. The adjustment shall be effective on the anniversary date of a multiple year contract or the beginning of each renewal option period.

(End of Clause)

* The Contracting Officer shall insert the percentage of the total option or multiple year price that represents the labor and labor burden cost established by the Assistant Commissioner, Office of Procurement, PBS, for the type of building service being acquired. This Alternate may only be used for the types of building services that the Assistant Commissioner has established a percentage of the contract price, which represents labor costs and is to be adjusted. When the negotiated method of procurement is used and the Contractor has submitted a

price breakdown, the Contracting Officer shall ensure that the percentage inserted in the clause is consistent with the Contractors price breakdown.

** Contracting Officer insert description of the unit price, e.g. monthly, hourly.

Dated: May 22, 1992.

Richard H. Hopf III,

Associate Administrator for Acquisition Policy.

[FR Doc. 92-12460 Filed 5-28-92; 8:45 am]

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Proposed Rules

Federal Register

Vol. 57, No. 104

Friday, May 29, 1992

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 91-197]

Change in Disease Status of Chile Because of Swine Vesicular Disease and Velogenic Viscerotropic Newcastle Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to declare Chile free of swine vesicular disease (SVD) and velogenic viscerotropic Newcastle disease (VVND). There has never been an outbreak of SVD in Chile, and there have been no cases of VVND in Chile since 1975. The change in the VVND status of Chile would relieve certain prohibitions and restrictions on the importation into the United States, from Chile, of certain poultry and poultry products.

However, Chile is not free of hog cholera. Therefore, even if the proposed change in the SVD status of Chile is adopted, the importation from Chile of swine and fresh, chilled, and frozen meat from swine would continue to be prohibited because of these diseases.

DATES: Consideration will be given only to comments received on or before July 28, 1992.

ADDRESSES: To help ensure that your written comments are considered, send an original and three copies to Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, room 804, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 91-197. Comments received may be inspected at USDA, room 1141, South Building, 14th and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Harvey A. Kryder, Chief Staff

Veterinarian, Import-Export Products Staff, VS, APHIS, USDA, room 756-A, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7885.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR part 94 (referred to below as the regulations) regulate, among other things, the importation into the United States of certain animals, meat, and animal products. These regulations are designed to prevent the introduction into the United States of certain animal diseases, including swine vesicular disease (SVD) and velogenic viscerotropic Newcastle disease (VVND).

SVD is an acute, highly infectious viral disease of swine. It is characterized by vesicular lesions and subsequently by erosions of the epithelium of the mouth, nares, snout, and feet.

VVND (also called exotic Newcastle disease) is an infectious and contagious virus disease affecting all species of poultry and birds. In poultry, the clinical evidence of the disease is severe respiratory distress, depression, and death in up to 100 percent of the poultry in infected flocks. Many birds, particularly of the psittacine families, may survive the acute infection. However, they still may shed the virus.

Section 94.12(a) of the regulations provides that SVD exists in all countries of the world except those listed in § 94.12(a), which are declared to be free of SVD. We are proposing to add Chile to this list.

Section 94.6(a)(1) of the regulations provides that VVND exists in all countries of the world except those listed in § 94.6(a)(2), which are declared to be free of VVND. We are proposing to add Chile to this list.

There have been no outbreaks of VVND in Chile since 1975, and there has never been an outbreak of SVD in Chile. This has been confirmed by the Office of International Epizootics (OIE), in which Chile maintains membership. The OIE reports any outbreaks of this and other diseases in member countries. We have determined that Chile has adequate controls to prevent the introduction and spread of VVND and SVD.

Chile has applied to the U.S. Department of Agriculture (USDA) to be recognized as free of VVND and SVD. The Animal and Plant Health Inspection

Service (APHIS) has reviewed the documentation submitted by the Government of Chile in support of its request. A team of APHIS officials recently conducted an on-site evaluation of the animal health program in Chile in regard to the VVND and SVD situation in that country. The evaluation consisted of a review of the capability of the Chilean veterinary services, laboratory and diagnostic procedures, disease reporting and surveillance procedures, vaccination practices, and the administration of laws and regulations to insure against the introduction into Chile of VVND and SVD through the importation of animals, meat, and animal products.

Based on the information discussed above, we believe that Chile qualifies for listing in § 94.6(a)(2) and 94.12(a) of the regulations as a country declared free of VVND and SVD. Adding Chile to the list of VVND-free countries in § 94.6(a)(2) would allow poultry and poultry products to be imported from Chile without being subject to the restrictions concerning VVND imposed by parts 94 and 92 (which addresses imports of live poultry and swine). Because Chile is still identified by § 94.10 as a country where hog cholera exists, adding Chile to the list of SVD-free countries in § 94.12(a) will not remove the prohibition contained in § 94.10 on importing live swine from Chile, or the prohibition contained in § 94.9 on importing pork, other than cooked or cured and dried pork, from Chile.

Special Restrictions

Because Chile shares borders with countries not recognized as free of SVD, we propose to restrict importation of pork and pork products from Chile in accordance with § 94.13, as discussed below. The countries listed in § 94.13(a) are subject to special restrictions because they (1) supplement their national pork supply by importing fresh, chilled, or frozen pork from countries in which SVD is considered to exist; (2) have a common land border with countries in which SVD exists; or (3) have certain trade practices regarding imports from countries in which SVD exist that could result in commingling of products from countries with SVD and products from the SVD-free country, presenting a possibility that products from a country with SVD could contaminate products exported to the

United States from the SVD-free country.

Chile has common land borders with Argentina, Bolivia, and Peru, which are designated in § 94.12(a) as countries in which SVD exists. In addition, Chile imports live swine and pork products from countries not recognized as free of SVD. Further, Chile supplements its national pork supply by the importation of fresh, chilled, and frozen pork from countries designated in § 94.12(a) as countries in which SVD exists. As a result, even though we propose to designate Chile as free of SVD, the pork and pork products produced in Chile may be commingled with pork and pork products from a country in which SVD exists, resulting in some risk of contamination.

Under § 94.13, pork or pork products from Chile would have to either:

(1) Be treated according to one of the procedures described in § 94.12(b) (the procedures for pork from countries with SVD); or,

(2) Be accompanied by a Chilean government certificate stating, among other things, that the Chilean slaughtering establishment does not accept swine or pork that originated in was transported through countries with SVD. In combination with the restrictions § 94.9 places on importing pork from Chile because of hog cholera, the net effect is that pork may be imported from Chile only if cooked or cured and dried in accordance with the regulations.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this proposal in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule, if adopted, would have an effect on the economy of less than \$100 million; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This proposal would eliminate the requirements of § 94.6 concerning VVND for poultry carcasses and poultry products to be imported into the United States from Chile. Live poultry imported into the United States from Chile would continue to be subject to the restrictions

of 9 CFR part 92, including the 30-day quarantine period required by § 92.209.

This proposal would also eliminate the requirements of § 94.12 concerning SVD for pork and pork products to be imported from Chile. However, the Chilean pork and pork products would instead have to comply with the requirements of § 94.13. The importation of live swine and fresh or frozen pork from Chile would continue to be prohibited in accordance with §§ 94.9 and 94.10, due to the existence of hog cholera in Chile.

Based on available information, the Department does not anticipate a major increase in Chilean exports of live poultry or poultry products to the United States as a result of this proposed rule. Since Chile is already trading in international markets, it is unlikely to disrupt established trade relationships with traditional European trading partners by diverting a significant amount of its exports of live poultry or poultry products to the United States. Increases in imports of live poultry from Chile are also highly unlikely because of high transportation costs.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. If this proposed rule is adopted:

- (1) All State and local laws, regulations, and policies that are in conflict with this rule will be preempted;
- (2) No retroactive effect will be given to this rule, and
- (3) It will not require administrative proceedings before parties may file suit in court challenging its provisions.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock and livestock products, Meat and meat

products, Milk, Poultry and poultry products, African swine fever, Exotic Newcastle disease, Foot-and-mouth disease, Fowl pest, Garbage, Hog cholera, Rinderpest, Swine vesicular disease, Velogenic viscerotropic Newcastle disease.

Accordingly, 9 CFR part 94 would be amended as follows:

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), VELOGENIC VISCEROTROPIC NEWCASTLE DISEASE, AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

1. The authority citation for part 94 would continue to read as follows:

Authority: 7 U.S.C. 147a; 150ee, 161, 162, 450; 19 U.S.C. 1306; 21 U.S.C. 111, 114a, 134a, 134b, 134c, and 134f; 31 U.S.C. 9701; 42 U.S.C. 4331, 4332; 7 CFR 2.17, 2.51, and 371.2(d).

2. The heading for part 94 would be revised to read as set forth above.

§ 94.6 [Amended]

3. In § 94.6, paragraph (a)(2) would be amended by adding "Chile," immediately after "Canada,".

§ 94.12 [Amended]

4. In § 94.12, paragraph (a) would be amended by adding "Chile," immediately after "Central American countries,".

§ 94.13 [Amended]

5. In § 94.13, the first sentence of the introductory text would be amended by adding "Chile," immediately after "Bulgaria,".

Done in Washington, DC, this 22nd day of May, 1992.

Robert Melland,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 92-12566 Filed 5-28-92; 8:45 am]

BILLING CODE 3410-34-F

NUCLEAR REGULATORY COMMISSION

10 CFR Part 73

RIN 3150-AE08

Clarification of Physical Protection Requirements at Fixed Sites

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is proposing to amend its general physical protection

requirements for fixed sites to clarify its regulatory intent. This amendment would make clear that the Commission's regulations do not require protection against both radiological sabotage and theft of special nuclear material (SNM) at all facilities. The Commission is also proposing to add a requirement that nonpower reactor licensees who operate at or above 2 megawatts thermal protect against radiological sabotage.

DATES: Comment period expires August 12, 1992. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail written comments to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Comments may also be delivered to One White Flint North, 11555 Rockville Pike, Rockville, MD, between 7:45 a.m. and 4:15 p.m. Federal Workdays.

Copies of the draft regulatory analysis, draft environmental assessment, and any comments received may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT Dr. Sandra D. Frattali, Division of Regulatory Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-3773.

SUPPLEMENTARY INFORMATION: Section 73.40(a) currently states, in part, that "Each licensee shall provide physical protection against radiological sabotage and against theft of special nuclear material at the fixed sites where licensed activities are conducted." This general requirement was promulgated in the early 1970's when definitive physical protection requirements did not exist for all classes of licensed facilities, materials, and activities. In the relicensing hearing for the Argonaut Research Reactor at the University of California, Los Angeles (UCLA) in 1983, an Atomic Safety and Licensing Board (ASLB) ruled that the general provision of § 73.40(a) required all fixed site licensees to protect against both radiological sabotage and theft of SNM. However, protection against both radiological sabotage and theft of SNM is not necessary at all sites; such a requirement would impose unnecessary burdens on some licensees. At present, detailed physical protection requirements are provided in part 73 for each class of licensed facility, material, or activity, including transportation of

both unirradiated and irradiated SNM. If a licensee satisfies the specific requirements in part 73 that apply to its specific class of facility, material, or activity, then the general need for physical protection as described in § 73.40(a) is satisfied. Because the ASLB view could unnecessarily require some licensees to provide physical protection measures not warranted by their particular licensed facility, material, or activity, a clarification of § 73.40(a) is necessary.

The above notwithstanding, in 1987 the NRC determined that for some nonpower reactors authorized to operate at or above 2 megawatts thermal, the possibility of sabotage leading to a significant radiological release, though remote, should not be discounted. The Commission's regulations pertaining to nonpower reactors currently contain requirements for physical protection against theft and diversion of SNM, but no requirement for protection against radiological sabotage. This rulemaking would add to § 73.60, "Additional requirements for physical protection at nonpower reactors," a requirement for protection against radiological sabotage where deemed necessary. It should be noted that those nonpower reactor licensees currently operating at or above 2 megawatts thermal, who have been identified as possibly being vulnerable to radiological sabotage, are voluntarily implementing additional measures to provide physical protection against radiological sabotage.

There is no alternative to rulemaking for clarifying the language in § 73.40(a). The language of the regulation must be clarified to conform with the Commission's view that fixed sites should be protected against the actual threat to the public health and safety, whether the threat involves theft of special nuclear material, or radiological sabotage, or both.

There is an alternative to the proposed amendment to § 73.60, namely, to allow the status quo, i.e., voluntary measures to protect against radiological sabotage, to continue since current practice with voluntary measures has provided adequate protection of the public health and safety. However, that would not provide such assurance for future licensees. Amending § 73.60 will establish the necessary regulatory basis to require protection against radiological sabotage, where deemed necessary, for nonpower reactors operating at or above 2 megawatts thermal.

Submission of Comments in Electronic Format

Commenters are encouraged to submit, in addition to the original paper

copy, a copy of their comments in electronic format on IBM PC-compatible 5.25- or 3.5-inch computer diskette. Data files should be provided in one of the following formats: WordPerfect, IBM Document Content Architecture/Revisable-Form-Text (DCA/RFT), or unformatted ASCII text.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, that this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. This proposed amendment to § 73.40(a) will clarify that the Commission's regulations do not require protection against both radiological sabotage and theft of special nuclear material at all facilities, which simply codifies existing NRC practice. Consequently, no environmental impacts are associated with this amendment. This proposed amendment to § 73.60 will require certain nonpower reactor licensees, who operate at or above 2 megawatts thermal, to protect against radiological sabotage where deemed necessary. Facilities affected by this amendment are already voluntarily implementing this requirement and therefore no consequences to the environment would occur due to this rulemaking. The proposed amendment to § 73.60 will also require future nonpower reactor licensees to provide physical protection against radiological sabotage if an analysis of the reactor's characteristics and fuel used therein indicates that such protection is necessary. For a future licensee, any environmental impacts associated with this requirement would be included in the Environmental Impact Statement prepared in support of that license application. The draft environmental assessment and finding of no significant impact on which this determination is based is available for inspection at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies are available from Dr. Sandra D. Frattali, Division of Regulatory Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-3773.

Paperwork Reduction Act Statement

This proposed rule does not contain a new or amended information collection

requirement and, thus, is not subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved under OMB clearance number 3150-0002.

Regulatory Analysis

The NRC has prepared a draft regulatory analysis for this proposed regulation. The draft analysis examines the costs and benefits of the alternatives considered by the Commission. The draft analysis is available for inspection in the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. Single copies of the analysis may be obtained from Dr. Sandra D. Frattali, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 492-3773.

Regulatory Flexibility Act Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. There is no economic impact on any current or future licensee except for certain nonpower reactor licensees. However, nonpower reactor licensees do not fall within the scope of "small entities" set forth in section 601(3) of the Regulatory Flexibility Act, 15 U.S.C. 632, or the Small Business Size Standards set out in regulations issued by the Small Business Administration in 13 CFR part 121.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule because the amendment to § 73.40(a) does not impose requirements on existing nuclear power reactor licensees, and the amendment to § 73.60 applies only to nonpower reactors. Therefore, a backfit analysis was not prepared for this proposed rule.

List of Subjects in 10 CFR Part 73

Criminal penalties, Exports, Hazardous materials transportation, Imports, Incorporation by reference, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Security measures.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR part 73.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

1. The authority citation for part 73 is revised to read as follows:

Authority: Secs. 53, 161, 68 Stat. 930, 948, as amended, sec. 147, 94 Stat. 780 (42 U.S.C. 2073, 2167, 2201); sec. 201, as amended, 204, 88 Stat. 1242, as amended, 1245 (42 U.S.C. 5841, 5844).

Section 73.1 also issued under secs. 135, 141, Pub. L. 97-425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 73.37(f) also issued under sec. 301, Pub. L. 98-295, 94 Stat. 789 (42 U.S.C. 5841 note). Section 73.57 is issued under sec. 606, Pub. L. 99-399, 100 Stat. 876 (42 U.S.C. 2169).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273); §§ 73.21, 73.37(g), and 73.55 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 73.20, 73.24, 73.25, 73.26, 73.27, 73.37, 73.40, 73.45, 73.46, 73.50, 73.55, and 73.67 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 73.20(c)(1), 73.24(b)(1), 73.26(b)(3), (h)(6), and (k)(4), 73.27(a) and (b), 73.37(f), 73.40(b) and (d), 73.46(g)(6) and (h)(2), 73.50(g)(2), (3)(iii)(B), and (h), 73.55(h)(2) and (4)(iii)(B), 73.57, 73.70, 73.71, and 73.72 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 73.40, paragraph (a) is revised to read as follows:

§ 73.40 Physical protection: General requirements at fixed sites.

(a) Each licensee shall provide physical protection at a fixed site, or contiguous sites where licensed activities are conducted, against radiological sabotage, or against theft of special nuclear material, or against both, in accordance with the applicable sections of this part for each specific class of facility or material license. If applicable, the licensee shall establish and maintain physical security in accordance with security plans approved by the Nuclear Regulatory Commission.

* * *

3. In § 73.60, the section heading is revised and paragraph (f) is added to read as follows:

§ 73.60 Additional requirements for physical protection at nonpower reactors.

* * *

(f) In addition to the fixed-site requirements set forth in this section and in § 73.67, the Commission may require, depending on the individual facility and site conditions, any alternate or additional measures deemed necessary to protect against radiological sabotage at nonpower reactors licensed to operate at or above a power level of 2 megawatts thermal.

Dated at Rockville, Maryland, this 22d day of May 1992.

For the Nuclear Regulatory Commission.
Samuel J. Chilk,
Secretary of the Commission.
[FR Doc. 92-12596 Filed 5-28-92; 8:45 am]
BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71]

[Airspace Docket No. 92-ACE-02]

Proposed Designation of Control Zone; Hays, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This Notice proposes to designate a control zone at Hays, Kansas, to provide approach controlled airspace for aircraft using instrument procedures at the Hays Municipal Airport, Hays, Kansas.

DATES: Comments must be received on or before June 29, 1992.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Manager, System Management Branch, Air Traffic Division, ACE-530, Docket No. 92-ACE-02 601 East 12th Street, Kansas City, Missouri 64106.

The official docket may be examined at the Office of the Assistant Chief Counsel, Central Region, Federal Aviation Administration, room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Manager, System Management Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Dale Carnine, Airspace Specialist, System Management Branch, Air Traffic Division, ACE-530, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 426-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical economic, environmental,

and energy-related aspects of the proposal. Communications should identify the airspace docket number, and be submitted in duplicate to the System Management Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106. All communications received on or before the closing date for comments will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available for examination in the rules docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, System Management Branch, 601 East 12th Street, Kansas City, Missouri 64106, or by calling (816) 426-3408.

Communications must identify the notice number of the NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to subpart F, § 71.171 of the Federal Aviation Regulations [14 CFR 71.171] by designating a control zone at Hays, Kansas. To enhance airport usage, an Automated Weather Observation System (AWOS) has been installed which will provide weather data on a 24 hour basis. Accordingly, the control zone for the Hays Municipal Airport, Hays Kansas, which was canceled effective June 28, 1990, is proposed to be reactivated. The intended effect of this action is to ensure segregation of aircraft operating under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). The airspace designation for the proposed control zone would be published in § 71.171 of handbook 7400.7, which is incorporated by reference in 14 CFR 71.1, if this regulation is promulgated.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current.

Therefore, this proposed regulation—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Lists of Subjects in 14 CFR Part 71

Airspace, control zone, Incorporation by reference.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.7, Compilation of Regulations, published April 30, 1991, and effective November 1, 1991, is amended as follows:

Section 71.171 designation

* * * * *

ACE KS CZ Hays, Kansas [NEW]
(lat. 38°50'44"N, long., 99°16'26"W)
Hays VORTAC (lat. 38°50'52"N, long., 99°16'35"W)

The airspace extending upward from the surface to and including 3,200 feet MSL within a 4.1-mile radius of Hays Municipal Airport and within 1.8 miles each side of the Hays VORTAC 005° radial extending from the 4.1-mile radius to 6.0 miles north of the VORTAC and within 1.8 miles each side of the Hays VORTAC 169° radial extending from the 4.1-mile radius to 6.0 miles south of the VORTAC.

* * * * *

Issued in Kansas City, Missouri, on May 15, 1992.

Charence E. Newbern,

Manager, Air Traffic Division Central Region.

[FR Doc. 92-12610 Filed 5-28-92; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

Pennsylvania Abandoned Mine Lands Reclamation Plan

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule.

SUMMARY: OSM is announcing receipt and requesting comments on a proposed amendment to the Pennsylvania Abandoned Mine Lands Reclamation Plan (hereinafter referred to as the Pennsylvania Plan) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment pertains to program initiatives submitted in response to changes in the abandoned mine lands program that resulted from the Fiscal Year 1992 Omnibus Budget Reconciliation Act, Public Law 101-508. The amendment also updates existing Pennsylvania Plan information that has changed since initial program approval.

This notice sets forth the times and locations that the Pennsylvania Plan and the proposed amendment to that Plan are available for public inspection, the comment period during which interested persons may submit written comments on the amendment and the procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received on or before 4 p.m. on June 29, 1992 to ensure consideration in the rulemaking process. If requested, a public hearing on the amendment will be held at 9 a.m. on June 23, 1992. Requests to present testimony at the hearing must be received on or before 4 p.m. on June 15, 1992.

ADDRESSES: Written comments and requests to testify at the hearing should be mailed or hand delivered to Robert J. Biggi, Director, Harrisburg Field Office at the address listed below. Copies of the Pennsylvania Plan, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requestor may receive, free of charge, one copy of the proposed amendment by contacting OSM's Harrisburg Field Office.

Office of Surface Mining Reclamation and Enforcement, Harrisburg Field Office.

Harrisburg Transportation Center, Third Floor, Suite 3C, 4th and Market Streets, Harrisburg, Pennsylvania 17101, Telephone: (717) 782-4036.

Pennsylvania Department of Environmental Resources, Bureau of Abandoned Mine Reclamation, P.O. Box 1467, Harrisburg, Pennsylvania 17105, Telephone: (717) 783-2156.

A public hearing, if held, will be at the Penn Harris Motor Inn and Convention Center at the Camp Hill Bypass and U.S. Routes 11 and 15, Camp Hill, Pennsylvania.

FOR FURTHER INFORMATION CONTACT:
Robert J. Biggi, Director, Harrisburg Field Office, (717) 782-4036.

SUPPLEMENTARY INFORMATION:

I. Background on the Pennsylvania Program

The Secretary of the Interior approved the Pennsylvania Plan on July 30, 1982. Information on the background of the Pennsylvania Plan including the Secretary's findings, and the disposition of comments can be found in the July 30, 1982, *Federal Register* (47 FR 33081-33083).

II. Discussion of Amendment

By letter dated April 17, 1992 (Administrative Record No. PA-806.00), the Pennsylvania Department of Environmental Resources (PADER) submitted to OSM a proposed amendment to revise the Pennsylvania Plan. The proposal would change the Plan to allow for program initiatives made available under the FY91 Omnibus Budget Reconciliation Bill (Pub. L. 101-508). In addition, the amendment proposes to update policies, procedures, and information contained in the Plan as originally approved on July 30, 1982.

The amendment consists of two new parts to be added to the existing Plan. Part D contains updates of the information, policies, and procedures that affect the original Plan and the new program initiatives. Part E contains the program modifications to implement the new initiatives under Pub. L. 101-508. A summary of each part follows:

(1) Part D: Update of the AML Reclamation Program Under Pub. L. 95-87 and Pub. L. 101-508

a. **Program Elements and Timing.** This section of the amendment addresses the new eligibility requirements for interim program and bond insolvency sites that may be reclaimed under the program. This section also provides the revised eligibility criteria for the funding of water supply projects, and the provision for set aside of AML funds to abate acid mine drainage (AMD).

b. **Administration & Management.** This section provides an updated exhibit showing the current organization of PADER. In addition, there is a brief discussion of the set-aside account that has been established to receive the funds for the AMD program.

c. **Policies and Procedures.** This section addresses policies and procedures that have been changed or refined since the approval of the original Plan. This includes the deletion of Executive Orders and Directives that have been revoked. A brief discussion is provided of the procedures for coordinating with the Pennsylvania Bureau of Forestry for information on endangered and threatened species, the use of surveys for endangered bats, and the conduct of surveys for archaeological and historical resources. The section also acknowledges the recent Memorandums of Understanding with the County Conservation Districts that outline operating procedures. Finally, this section includes a description of the criteria to be used in determining whether to file a lien for increases in property value resulting from an AML reclamation project.

(2) Part E: Pennsylvania's Reclamation Plan for the New Initiatives Under Pub. L. 101-508

a. **Introduction.** This section addresses the requirements for plan amendments contained in 30 CFR 884.15. In general, this section reevaluates each of the required Plan sections under 30 CFR 884.13 as they relate to the new program initiatives. This includes a reevaluation of Governor of the Commonwealth of Pennsylvania agency designation with respect to the new program initiatives, a legal opinion as to the authority of PADER to conduct the new initiatives, and a description of the policies and procedures to be followed. This section also addresses the public involvement in the development of the amendment, administrative and management structure, and activities to be conducted.

b. **Interim Bond Forfeiture Projects.** This section addresses the new eligibility criteria and the method for selecting bond forfeiture projects to be funded by the AML program.

c. **Bankrupt Surety Bond Forfeiture Projects.** This section provides the new eligibility criteria regarding forfeited mining operations where the surety company is bankrupt. Information is also provided to address how the sites will be selected for funding under the AML program.

d. **Abatement/Treatment Program.** This section provides information on how PADER will address AMD problems under the new AMD

abatement provisions. Procedures for coordinating with the Soil Conservation Service (SCS) and for developing qualified hydrologic units are outlined.

e. **Water Supply Replacement Projects.** This section addresses the revised funding limits and eligibility criteria for water supply projects. The method for ranking and selecting such projects is identified.

The Plan amendment also includes revised exhibits E-1 to E-64 that support the sections listed above.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comments on whether the amendment proposed by Pennsylvania satisfies the applicable plan approval criteria of 30 CFR 884.13. If the amendment is deemed adequate, it will become part of the Pennsylvania Plan.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Harrisburg Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by 4 p.m. on June 15, 1992. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber.

Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held.

Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the Harrisburg Field Office by contacting the person listed under "FOR FURTHER INFORMATION CONTACT."

All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under "ADDRESSES." A written summary of each meeting will be made part of the Administrative Record.

Executive Order 12778

This rule has been reviewed under the principles set forth in section 2 of E.O. 12778 (56 FR 55195, October 25, 1991) on Civil Justice Reform. The Department of the Interior has determined, to the extent allowed by law, that this rule meets the applicable standards of section 2(a) and 2(b) of E.O. 12778. Under SMCRA section 405 and 30 CFR 884 and section 503(a) and 30 CFR 732.15 and 832.17(h)(10), the agency decision on State program submittals must be based solely on a determination of whether the submittal is consistent with SMCRA and the Federal regulations. The only decision allowed under the law is approval, disapproval or conditional approval of State program amendments.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: April 24, 1992.

Jeffrey D. Jarrett,

Acting Assistant Director, Eastern Support Center.

[FR Doc. 92-12491 Filed 5-28-92; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[A-91-29; FRL 4135-9]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Nonconformance Penalties for Heavy-Duty Engines and Heavy-Duty Vehicles, Including Heavy Light-Duty Trucks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: EPA is proposing that nonconformance penalties (NCPs) be made available for specific emission standards taking effect in the 1994 model year. The NCP will allow a manufacturer of heavy-duty engines (HDEs) or heavy-duty vehicles (HDVs),

which include heavy light-duty trucks, whose engines or vehicles fail to conform with certain applicable emission standards, but do not exceed a designated upper limit, to be issued a certificate of conformity upon payment of a monetary penalty. The specific emission standards for which NCPs are considered in this rulemaking are the 1994 and later model year Particulate Matter (PM) standard for heavy-duty diesel engines used in urban buses, the 1994 and later model year PM standard for heavy-duty diesel engines used in vehicles other than urban buses and the proposed 1994 and later model year Cold CO standard for heavy light-duty trucks.

In addition to considering the specific emission standards for which NCPs may be made available, EPA is proposing upper limits and penalty rates for those emission standards for which NCPs are being proposed.

Other issues included are configuration selection for Production Compliance Audit (PCA) testing and PCA eligibility.

DATES: *Public Comment:* All comments should be received on or before June 29, 1992 or within 30 days following the conclusion of the public hearing, if held, whichever is later.

Public Hearing: If requested, EPA will hold a public hearing regarding this proposed rule on June 29, 1992, beginning at 10 a.m. Any person desiring to present oral testimony must request the hearing by noon, EDT, June 12, 1992. Requests for, or questions about, the hearing should be directed to the EPA contact person listed below. To the extent possible, any person desiring to participate in a hearing should, prior to the hearing, notify the EPA contact person of his or her intention and submit an outline of the points to be discussed and the time needed to discuss these points. Pursuant to section 307 of the Clean Air Act, the record of the hearing, if held, will be kept open for 30 days following its conclusion to provide an opportunity for submission of rebuttal or other information.

ADDRESSES: *Send written comments to:* Public Docket A-91-29 at the Air Docket (LE-131), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. If possible, a copy of the written comments should be submitted to the EPA contact person listed below.

The hearing will take place at the EPA National Vehicle & Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105. Any person wishing to attend should call the EPA contact person, listed below, to determine if the hearing will be held.

Public Docket: Copies of materials relevant to this rulemaking proceeding are contained in Public Docket A-91-29 at the Air Docket of the U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, and are available for review in room M-1500 between the hours of 8 a.m. to noon and 1 to 3:30 p.m. on weekdays. As provided in 40 CFR part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT:

Mr. Anthony Erb, Manufacturers Operations Division (EN-340F), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC, 20460, telephone (202) 260-6536.

SUPPLEMENTARY INFORMATION:

I. Statutory Authority

Section 206(g) of the Clean Air Act (the Act), 42 U.S.C. 7525(g), requires EPA to issue a certificate of conformity for HDEs or HDVs which exceed an applicable section 202(a) emissions standard, but do not exceed an upper limit associated with that standard, if the manufacturer pays an NCP established by rulemaking. In placing section 206(g) in the Clean Air Act Amendments of 1977, Congress intended NCPs as a response to perceived problems with technology-forcing heavy-duty emissions standards. (It should be noted, however, that the existence of NCPs does not change the criteria under which the standards have been and will be set under section 202.) Following *International Harvester v. Ruckelshaus*, 478 F.2d 615 (D.C. Cir. 1973), Congress realized the dilemma that technology-forcing standards were likely to cause. If strict standards were maintained, then some manufacturers, "technological laggards," might be unable to comply initially and would be forced out of the marketplace. NCPs were intended to remedy this potential problem; the laggards would have a temporary alternative to permit them to sell their engines or vehicles through payment of a penalty, yet leaders would not suffer an economic disadvantage compared to nonconforming manufacturers, because the NCP would be based, in part, on the amount of money the laggard and his customer saved from the nonconforming engine or vehicle.

Under section 206(g)(1), NCPs may be offered for HDVs or HDEs. The penalty may vary by pollutant and by class or category of vehicle or engine.

HDVs are defined by section 202(b)(3)(C) as vehicles in excess of 6,000 pounds gross vehicle weight rating (GVWR). The light-duty truck (LDT)

classification includes trucks that have a GVWR of 8500 lbs or less. Therefore, certain LDTs may be classified as HDVs. Historically, LDTs up through 6000 lbs GVWR have been considered "light light-duty trucks" (LLDTs) and LDTs between 6,001 and 8,500 pounds GVWR have been considered "heavy light-duty trucks" (HLDTs). Based on the requirements of the Clean Air Act Amendments of 1990 each of these two light truck categories has been further subdivided into groups by weight.

The LLDTs are split by weight based on "loaded vehicle weight," or LVW, which maintains its current definition: curb weight plus 300 lbs. The trucks up through 3750 lbs LVW make up a subclass called light-duty-trucks-1, or LDT1. Those greater than 3750 lbs LVW but less than or equal to 6000 lbs GVWR are the subclass light-duty-trucks-2, or LDT2.

The HLDTs are divided at 5750 lbs "adjusted loaded vehicle weight," or ALVW. Adjusted loaded vehicle weight is the average of the curb weight and the GVWR. The HLDTs that are up through 5750 lbs ALVW are called light-duty trucks-3, or LDT3. Those above 5750 lbs ALVW but less than or equal to 8500 lbs GVWR are light-duty-trucks-4, or LDT4. The LDT3 and LDT4 subclasses make up the HLDT vehicle class. However, only those trucks with a GVWR greater than 6000 lbs will be eligible for NCPs. LDT3 or LDT4 trucks with a GVWR less than or equal to 6,000 lbs will not be eligible for NCPs.

Section 206(g)(3) requires that NCPs:

- Increase with the degree of emission nonconformity;
- Increase periodically to provide incentive for nonconforming manufacturers to achieve the emission standards; and
- Remove competitive disadvantage to conforming manufacturers.

Section 206(g) authorizes EPA to require testing of production vehicles or engines in order to determine the emission level on which the penalty is based. If the emission level of a vehicle or engine exceeds an upper limit of nonconformity established by EPA through regulation, the vehicle or engine would not qualify for an NCP under section 206(g) and no certificate of conformity could be issued to the manufacturer. If the emission level is below the upper limit but above the standard, that emission level becomes the "compliance level," which is also the benchmark for warranty and recall liability; the manufacturer who elects to pay the NCP is liable for vehicles or engines that exceed the compliance level in-use. The manufacturer does not have in-use warranty or recall liability

for emissions levels above the standard but below the compliance level.

II. Availability of Nonconformance Penalties

A. Review of NCP Eligibility Criteria

The generic NCP rule (Phase I) established three basic criteria for determining the eligibility of emission standards for nonconformance penalties in any given model year. First, the emission standard in question must become more difficult to meet. This can occur in two ways, either by the emission standard itself becoming more stringent, or due to its interaction with another emission standard that has become more stringent.

Second, substantial work must be required in order to meet the emission standard. EPA considers "substantial work" to mean the application of technology not previously used in that vehicle or engine class/subclass, or a significant modification of existing technology, in order to bring that vehicle/engine into compliance. EPA does not consider minor modifications or calibration changes to be classified as substantial work.

Third, a technological laggard must be likely to develop. A technological laggard is defined as a manufacturer who cannot meet a particular emission standard due to technological (not economic) difficulties and who, in the absence of NCPs, might be forced from the marketplace. EPA will make the determination that a technological laggard is likely to develop, based in large part on the above two criteria. However, these criteria are not always sufficient to determine the likelihood of the development of a technological laggard. An emission standard may become more difficult to meet and substantial work may be required for compliance, but if that work merely involves transfer of well-developed technology from another vehicle class, it is unlikely that a technological laggard would develop.

B. Phase II NCPs

The above criteria were used to determine eligibility for NCPs during Phase II of the NCP rulemaking (50 FR 53465, December 31, 1985). NCPs were offered for the following 1987 and 1988 model year standards: the particulate matter (PM) standard for 1987 diesel-fueled light-duty trucks with loaded vehicle weight in excess of 3750 pounds (LDDT2s), the 1987 gasoline-fueled light HDE (LHDGE) HC and CO emission standards, the 1988 diesel-fueled HDE (HDDE) PM standard, and the 1988 HDDE NO_x standard. As discussed in

the Phase II preamble, NCPs were considered, but not offered, for the 1987 HLDT NO_x standard and the 1988 (later, the 1990) gasoline-fueled HDE (HDGE) NO_x standard.

C. Phase III NCPs

The availability of NCPs for 1991 model year HDE standards was addressed during Phase III of the NCP rulemaking (55 FR 46622). NCPs were offered for the following: The 1991 HDDE PM standard for petroleum-fueled urban buses, the 1991 HDDE PM standard for petroleum-fueled vehicles other than urban buses, the 1991 petroleum-fueled HDDE NO_x standard, and the PM emission standard for 1991 and later model year petroleum-fueled light-duty diesel trucks greater than 3750 lbs loaded vehicle weight (LDDT2s). As discussed in the Phase III preamble, NCPs were also considered but not offered for the methanol-fueled heavy-duty diesel engine and heavy-duty gasoline engine standards as it was concluded that those standards did not meet the eligibility criteria established in the generic rule.

In addition, Phase III of the NCP rulemaking described how NCPs would be integrated into the HDE NO_x and PM averaging program.

D. 1994 and Later Model Year Methanol Standards

With the adoption of emission standards for 1990 and later model year methanol-fueled vehicles and engines (54 FR 14426, April 11, 1989), methanol-fueled engines became controlled for emission of the same pollutants as those controlled from gasoline or diesel-fueled engines. In general, the standards set for methanol-fueled engines are equivalent to those set for gasoline and diesel fueled HDEs. The 1994 model year HDE PM standard applicable to methanol-fueled HDEs is 0.10 g/BHP-hr. Current data suggest that methanol-fueled engines will be capable of complying with the 1994 model year particulate matter standard without adding any extra emission control hardware. Also, EPA does not believe manufacturers will experience more difficulty in complying with the applicable HC, CO and NO_x emission standards as a result of the 1994 model year particulate matter standard. Based on this information, the level of effort that manufacturers are projected to expend in order to meet the standards, and with no clear indication that a technological laggard can reasonably be expected to develop, EPA currently does not believe that methanol fueled HDEs meet the criteria for NCPs. Therefore, EPA does not propose to

offer NCPs for the 1994 model year methanol fueled HDE emission standards. EPA seeks comment as to the possible need for methanol-fueled HDE NCPs.

E. NCP Eligibility for 1994 and Later Emission Standards for Petroleum-Fueled HDEs

The remainder of this proposal addresses whether NCPs should be made available for the 1994 model year HDE standards for gasoline and diesel fueled vehicles.

1. The following standards are eligible for NCPs (and have not previously been considered for NCPs) as a result of emission standards being revised:

a. 1994 proposed HDDE urban bus engine PM standard: 0.05 g/BHP-hr (56 FR 48350, September 24, 1991);

b. 1994 HDDE PM standard for other than urban buses: 0.1 g/BHP-hr, and

c. 1994 proposed Cold CO standard for HLDTs: 15.0 g/mile @ 20 degrees Fahrenheit (55 FR 38250, September 17, 1990).

2. The Eligibility of Each These Standards for NCPs Is Discussed Below

a. *1994 petroleum-fueled HDDE PM standard for urban bus engines.* Tightening the HDDE PM standard applicable to 1994 and later model year petroleum-fueled urban bus engines from the 1993 standard of 0.1 g/BHP-hr to 0.05 g/BHP-hr represents a significant increase in stringency. To meet the tightened standard, petroleum-fueled urban bus engines will have to be equipped with trap oxidizers or other after-treatment devices that are being developed for application to HDEs, including urban buses. While prototype HDEs with exhaust after-treatment devices have been built and several test fleets are currently in the field, manufacturers have expressed uncertainty about exhaust after-treatment system durability and their ability to maintain compliance with the 0.05 g/BHP-hr standard over the useful life of production engines. EPA believes that manufacturers will have to make substantial efforts to achieve compliance and that there is a possibility that a technological laggard may develop. The Agency consequently proposed to offer NCPs for the 1994 petroleum-fueled urban buses diesel PM standard.

b. *1994 PM standard for petroleum-fueled HDDEs other than urban bus engines.* Although the 0.1 g/BHP-hr PM standard for the petroleum-fueled HDDEs is not as stringent as the urban bus standard, it nevertheless represents a significant increase in stringency under the 0.25 g/BHP-hr standard. EPA

still believes, as was stated in the Federal Register (50 FR 10606, March 15, 1985), that a portion of the HDDE fleet will require significant engine changes and/or other new or improved technology to comply with this standard. Based on discussions with a number of HDE manufacturers in December of 1990, such changes will include the use of catalysts and possible trap oxidizers for some engine families. This represents the application of emission control technology not previously used on HDEs. Even if catalyst or trap oxidizers or other after-treatment devices are not needed to meet the 0.1 g/BHP-hr standard, achieving engine-out levels low enough to meet the standard will still require effort on the part of manufacturers. Therefore, EPA considers it possible that a technological laggard will develop and proposes to offer NCPs in 1994 in the 0.1 g/BHP-hr standard for petroleum-fueled HDDEs other than urban bus engines.

c. *1994 Cold CO standard for HLDTs.* Section 202(j) of the Clean Air Act as amended in 1990 requires that the Administrator promulgate regulations applicable to light-duty vehicles and light-duty trucks when operated at 20 degrees Fahrenheit. According to section 202(j), the regulations shall contain standards which provide that emissions of CO from a manufacturer's vehicles when operated at 20 degrees Fahrenheit may not exceed, in the case of light-duty vehicles, 10.0 grams per mile. In the case of light-duty trucks emissions may not exceed a level comparable in stringency to the standard applicable to light-duty vehicles. EPA has proposed that HLDTs must comply with a 15.0 gram per mile emission standard for carbon monoxide at 20 degrees Fahrenheit. However, it is possible that this will be revised to a 12.5 gram per mile standard in the final rule. This matter is currently under review and not resolved as of this writing.

While the cold CO standard will be new, it is not expected that any new technology will be needed to comply with the standard under either the 12.5 or the 15.0 gram per mile standard. HLDT manufacturers will only need to incorporate technology already used on lighter trucks and passenger vehicles. This, coupled with the fact that there is a phase-in schedule requiring that only a certain percentage of each manufacturer's sales volume comply with the standard each year beginning with 40% compliance in 1994; 80% compliance in 1995; and 100% compliance in 1996, should provide adequate relief relative to any difficulties that a manufacturer may

encounter in demonstrating compliance. Therefore, after consideration, EPA does not propose that NCPs be made available for this standard.

F. Interaction With Other Standards

As we stated above, emission standards may also become more difficult to meet due to interaction with other standards that have become more stringent. Tradeoffs between standards can occur when a control strategy that decreases emission of one pollutant has the potential to increase emission of another. An example of this phenomenon may be seen in the tradeoff between NO_x, HC, and PM emissions when combustion temperature, through injection timing changes, is used to control emissions. Increased timing retard decreases NO_x emissions, but tends to increase particulate and HC emissions. Similar interactions may occur for the control strategies. This section reviews a number of standards that have not themselves changed, but which may be affected by the more stringent 1991 PM standards.

1. *1994 Petroleum-fueled HDDE NO_x Standard (Interaction with 1994 Petroleum-fueled HDDE AND HDDE Urban Bus PM standards)*

NCPs were offered for the more stringent 1991 HDDE NO_x standard of 5.0 g/BHP-hr in consideration of the substantial decrease in the PM standard and the fact that efforts to achieve the more stringent PM standard were likely to place upward pressure on NO_x levels. In addition, the 5.0 g/BHP-hr NO_x standard represented a 17 percent reduction from the previous level. In 1994, the PM standard will be reduced to 0.10 g/BHP-hr for HDDEs and to 0.05 g/BHP-hr for urban buses. The NO_x standard will not change from the 1991 level. Efforts to achieve a more stringent PM standard can place upward pressure on NO_x emission levels in certain instances. This increase in NO_x could generally occur in cases where engine modifications are undertaken to reduce PM emissions and there is a trade-off with increased NO_x emissions possibly occurring as a result of the modification. However, to meet the revised PM standard in 1994, manufacturers will likely reply on the addition of after-treatment devices such as catalytic converters and particulate traps rather than engine modifications per se. The use of these after-treatment devices is not foreseen to put upward pressure on NO_x emissions. Consequently, EPA does not believe that a NCP is needed for the NO_x emission standard based on

the revised 1994 PM emission standard and does not propose to offer one.

2. 1994 Petroleum fueled HDDE HC and CO (Interaction with 1994 HDDE PM standard)

EPA did not offer NCPs for the 1991 HDDE HC and CO standards, since the standards could be met without substantial effort on the part of manufacturers. Available 1991 model year HDDE certification data indicates that manufacturers can meet the 1991 standards and, in fact, certification emission levels including adjustment for in-use deterioration are substantially below the standards. The engine modifications and after-treatment devices likely to be used to meet the PM standards in 1994 should not increase HC emissions, but instead are likely to decrease HC levels. PM control should not increase CO emissions. Therefore, EPA concludes that compliance with the HDDE HC and CO standards will not become substantially more difficult as a result of the more stringent PM standard and does not propose to offer NCPs for the HDDE HC and CO standards in 1994.

3. 1994 HDDE Smoke Standards (Interaction with 1994 PM Standard)

All HDDE manufacturers are currently meeting the smoke standards. No revision to these standards has been proposed. Also, better emission controls in response to the revisions to the PM standard for the 1994 model year would tend to lower smoke emissions. Manufacturers must maintain PM emissions to at least that of the previous standard (since the previous standard is the applicable upper limit for PM NCP purposes). Manufacturers have demonstrated their ability to comply with the smoke standard at that PM level. Therefore, EPA does not believe that substantial effort will be required for compliance with the smoke standards as a result of the interaction with the PM standard, and therefore does not believe NCPs for the HDDE smoke standards are warranted.

III. Penalty Rates

Since this rule is the next in a series of NCP rulemakings, the discussion of penalty rates in the Phase III rulemaking (50 FR 46622, November 5, 1990), the Phase II rulemaking (50 FR 53463, December 31, 1985) as well as the Phase I rulemaking (50 FR 35374, August 30, 1985) are incorporated in this document. This section briefly reviews the penalty rate formula and discusses how EPA arrived at the penalty rates in this rule. Emphasis will be placed on procedures different from those used to derive

penalty rates during Phase II or Phase III.

A. Parameters

As in the previous NCP rules, EPA is specifying values for the following parameters in the NCP formula for each standard: COC_{90} , COC_{50} , MC_{50} , and F . The NCP formula is the same as that promulgated in the Phase I rule.

COC_{50} is an estimate of the industrywide average incremental cost per engine (references to engines are intended to include vehicles as well) associated with meeting the standard for which an NCP is offered. COC_{50} is based on typical engine technology, as nearly as EPA can identify it. As in the previous NCP rules, costs include additional manufacturer costs and additional owner costs. The other NCP rules did not include certification costs in the calculation of COC_{50} , and none will be allowed in this rule because both complying and noncomplying manufacturers must incur certification costs.

COC_{90} is EPA's best estimate of the 90th percentile incremental cost per engine associated with meeting the standard for which an NCP is offered. COC_{90} is based on a near worst case technology, as nearly as EPA can identify it. COC_{90} , like COC_{50} , includes both manufacturer and owner costs, but not certification costs.

MC_{50} is the steepest segment of the curve describing industrywide average marginal cost of compliance with the NCP standard for engines in the NCP category. MC_{50} is measured in dollars per g/BHP/hr for HDEs and in dollars per gram per mile (g/mi) for LDTs.

F is a factor used to derive MC_{90} , the 90th percentile marginal cost of compliance with the NCP standard for engines in the NCP category. MC_{90} is defined as being the slope of the penalty rate curve near the standard and is equal to MC_{50} multiplied by F . For this rulemaking, as was the case in the previous NCP rules, EPA has determined that no reasonable estimate of MC_{90} can be made based on existing marginal cost data and has thus set F at a presumptive value of 1.2. This approach was generally supported by commenters on the past NCP rulemakings.

B. Parameter Values

The derivation of each of the proposed cost parameters is described in detail in a support document entitled "Calculation of Nonconformance Penalty Rates for 1994 and Later Model Year Heavy-duty Diesel Particulate Matter (PM) Standards," which is available in the public docket for this rulemaking. The upper limits applicable

to a pollutant emission standard shall be determined as per § 86.1104-87.

1. 1994 Petroleum-fueled HDDE Particulate Matter Standard for Urban Bus Engines

EPA proposes that the following values (in 1991 dollars) be used in the NCP formula for the proposed 1994 and later model year 0.05 g/BHP/hr PM standard for urban bus engines.

COC_{50} = \$5,459
 COC_{90} = \$10,014
 MC_{50} = \$109,179
 F = 1.2

COC_{50} is based on engine modifications and front-face burner type trap technology. COC_{90} is based on engine modifications and the use of a particulate trap system that is purchased from a secondary manufacturer.

2. 1994 Particulate Matter Standard for Petroleum-fueled HDDEs Other Than Urban Bus Engines

EPA proposes that the following values (in 1991 dollars) be used in the NCP formula for the 1994 0.10 g/BHP-hr HDDE PM standard for the three HDDE subclasses:

| | LHDDE | MHDDE | HHDE |
|--------------|---------|----------|----------|
| COC_{50} = | \$772 | \$1,276 | \$2,105 |
| COC_{90} = | \$1,840 | \$3,298 | \$6,978 |
| MC_{50} = | \$8,178 | \$15,370 | \$30,070 |
| F = | 1.2 | 1.2 | 1.2 |

For all three HDDE subclasses, the value of COC_{50} is based on engine modifications and the use of catalytic converters, while COC_{90} is based on a front-face burner type trap technology.

IV. Other Issues

A. Selection of Configuration for PCA Testing

As currently written, section 86.1106-87(a)(2) requires PCA testing of the same configuration tested in certification, unless an alternate configuration is approved by the Administrator (50 FR 46622, November 5, 1990). In a letter of October 10, 1990, General Motors Corporation (GM) stated that this establishes an unworkable PCA requirement because certification testing often involves multiple vehicle or engine configurations and that no indication is given concerning how multiple configurations are to be PCA tested or how multiple compliance levels (CLs) are to be applied. To remedy this perceived problem GM has suggested that § 86.1106-87(a)(2) be modified to state:

"PCA testing must be conducted on the same configurations that exceeded the standard in certification. In lieu of that requirement, the Administrator may approve testing of a greater or lesser number of configurations provided the manufacturer agrees to pay the NCP determined from the CL of each tested configuration for that configuration and for other non-tested configurations that have similar emission characteristics. If an acceptable showing of similar emission characteristics is not made, the highest CL of the configurations tested will apply to all non-tested configurations exceeding the standard."

EPA agrees with GM that current wording of section 86.1106-87(a)(2) needs to be modified to accommodate the possibility of multiple CLs within a given engine family. Therefore, EPA is proposing that PCA testing be conducted on the same configuration that exceeded the standard in certification unless the Administrator approves testing of alternate configuration(s) and provided the manufacturer agrees to pay the NCP determined from the CL of each tested configuration for that configuration and for other non-tested configurations that have similar emission characteristics. If the manufacturer does not adequately demonstrate to the Administrator that non-tested configurations have similar emission characteristics to tested configurations, the highest CL of the configurations tested will apply to all non-tested configurations.

EPA believes that this change will allow manufacturers the opportunity to more accurately identify the emissions of the configuration(s) in question and provide for the application of the appropriate NCP payment. EPA expects that the CL determined for some configurations tested may be lower than the CL based on a certification configuration which would have otherwise applied. This will serve to lower the benchmark emission level for warranty and recall activities that the manufacturer will be responsible for over the life of this engine. This demonstration of a lower level of pollutant emission will also decrease the amount of the NCP payment by the manufacturer. EPA does not expect that this change will effect the overall use of NCPs by the manufacturers. The Agency requests comments on this proposal.

B. Production Compliance Auditing

As currently written, section 86.1106-87 states that a manufacturer may elect to conduct a PCA for a vehicle or engine configuration that has certification test results exceeding the emission standard for a particular pollutant or that fails a Selective Enforcement Audit (SEA) with

respect to a particular pollutant. In its October 10, 1990 letter, GM stated that, as a result of emission test variability, compliance cannot always be clearly determined. Therefore, according to GM, the manufacturer should be permitted to volunteer to have a conforming engine family from certification, conforming configuration(s) from SEA or conforming configuration(s) from a production change included in the NCP program, provided certain conditions are met. These conditions include the following:

1. A definite limit on the emission increment near the standard that would allow the manufacturer the choice of conducting a PCA; and
2. A requirement that the resulting CL(s) from the PCA testing be above the standard.

EPA disagrees with GM regarding this matter because EPA believes that PCA testing should only be an option for engine families that have demonstrated their nonconformity by failing to meet the standard during certification testing or through failure of an SEA. Section 206(g) of the Clean Air Act provides NCPs to allow manufacturers with engines that emit at levels above the applicable standards to obtain certificates of conformity and to avoid having these certificates suspended or revoked. Engine families that have demonstrated compliance with emission standards during certification and have not failed an SEA are not in jeopardy of not obtaining a certificate of conformity or of having that certificate suspended or revoked, thus, there is no need for NCPs or to conduct a PCA. EPA also believes that allowing a PCA to be conducted and an NCP to be paid for an engine family which has met the standard during certification or SEA testing would be equivalent to allowing manufacturers to buy a safety margin for possible in-use compliance concerns. EPA does not believe Congress intended NCPs to be used for this purpose. Manufacturers who anticipate increased emission levels during a vehicle or engine's useful life should account for the increased emission levels when determining deterioration factors. Furthermore, a change that would allow manufacturers the option of conducting a PCA on engines or vehicles that have already passed certification testing or an SEA contradicts the consensus agreement signed by the members of the NCP negotiating committee during the regulatory negotiation process that took place prior to the first NCP rulemaking. This agreement specifically stated that a PCA may be initiated under any of the following circumstances:

- a. Certification emission level above the new or revised standard.
- b. Selective Enforcement Audit results above the new or revised standard.
- c. Production running change that causes the certification emission level to be above the new or revised standard, but not above the upper limit.
- d. Carryover of a PCA emission level from a previous year.

None of these criteria are met under the GM proposal. Therefore, EPA does not believe that Section 86.1106-87 should be changed as GM has suggested.

V. Administrative Designation and Regulatory Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement that a Regulatory Impact Analysis (RIA) be prepared. Major regulations are defined as any regulation that is likely to result in:

- (1) An annual effect on the economy of \$100 million or more;
- (2) A major increase in costs or prices for consumers, individuals, Federal, State, or local government agencies, or geographic regions; or
- (3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

The proposed regulation will not have an annual effect on the economy in excess of \$100 million and will not cause a major increase in the price of HDEs above those that would otherwise occur from compliance with the emission standards themselves. This proposed regulation is intended to assist manufacturers that are having difficulty developing and marketing vehicles which comply with the 1994 and later model year emission standards. Without this rule a manufacturer experiencing difficulty in complying with the 1994 model year emission standards (after the use of credits) has only two alternatives: fix the nonconforming engines for the 1994 model year or not sell them at all. NCPs provide manufacturers with additional time to bring their engines into conformity.

In addition, NCPs are calculated to deprive nonconforming manufacturers of any cost savings and competitive advantages stemming from marketing a nonconforming engine. Thus, NCPs will not have significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to

compete with foreign-based enterprises in domestic or export markets. The Administrator has determined that this proposal does not constitute a "major" regulation according to these established criteria and that a RIA is not required.

VI. OMB Review

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB and any EPA response to those comments are in the Public Docket (A-91-29).

VII. Economic Impact

Because the use of NCPs is optional, manufacturers have the flexibility and will likely choose whether or not to use NCPs based on their ability to comply with emissions standards. If no HDE manufacturer elects to use NCPs, these manufacturers and the users of their products will not incur any additional costs related to NCPs.

NCPs remedy the potential problem of having a manufacturer forced out of the marketplace due to that manufacturer's inability to immediately conform to new, strict emission standards. Without NCPs, a manufacturer which has difficulty certifying HDEs in conformance with emission standards or whose engines fail a SEA has only two alternatives: fix the nonconforming engines, perhaps at a prohibitive cost, or prevent their introduction into commerce. The availability of NCPs provides manufacturers with a third alternative: continue production and introduce into commerce upon payment of a penalty for an engine that exceeds the standard until an emission conformance technique is developed.

Therefore, NCPs represent a regulatory mechanism that allows affected manufacturers to have increased flexibility. A decision to use NCPs may be a manufacturer's only way to continue to introduce HDEs into commerce. Hence, NCPs may be considered to have no adverse economic impact.

VIII. Environmental Impact

When evaluating the environmental impact of this rule, one must keep in mind that, under the Act, NCPs are a consequence of enacting new, more stringent emissions requirements for heavy duty engines. Emission standards are set at a level that most, but not necessarily all, manufacturers can achieve by the model year in which the standard becomes effective. Following *International Harvester v. Ruckelshaus*, 478 F.2d 615 (US Circuit Court, DC

District, 1973), Congress realized the dilemma that technology-forcing standards were likely to cause, and allowed manufacturers of heavy-duty engines to certify nonconforming vehicles/engines upon the payment of an NCP. This mechanism would allow manufacturer(s) who cannot meet technology-forcing standards immediately to continue to manufacture these nonconforming engines while they tackle the technological problems associated with meeting new emission standard(s). Thus, a part of the congressional scheme to force technological improvements without driving any manufacturer out of the market, NCPs provide for long-term emissions improvement through the setting of lower emission standards at an earlier date than could otherwise be possible. By design, NCPs encourage the technological laggard that is using NCPs to reduce emission levels to the more stringent standard as quickly as possible.

IX. Compliance With Regulatory Flexibility Act

Under section 605 of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, the Administrator is required to certify that this proposed regulation will not have a significant impact on a substantial number of small business entities. None of the affected manufacturers could be classified as small. Moreover, as already discussed, the NCP program can be expected to benefit manufacturers.

Some small entities do exist as manufacturers' contractors for the testing of engines for PCAs. It is EPA's practice to conduct PCA scheduling (namely, tests per day limitations) in such a way as to consider the staff and manpower capabilities of such contractors and work around any problems. The result is that these entities are not adversely affected. Thus, I certify that this proposed rule will not have any adverse economic impact on a substantial number of small entities.

X. Information Collection Requirements

This proposed rule requires that manufacturers perform certain record keeping and submit certain reports to EPA. The Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, provides that reporting and record keeping requirements be approved by OMB before they can be imposed on the public. The information collection requirements in this proposed rule have been addressed in previous rulemaking and approved by OMB (OMB control no. 2060-0132). At the time of the final rulemaking the Agency will submit an Inventory Correction Worksheet to OMB

amending the approved burden hours to reflect the additional reports required by this rulemaking. However, any person wishing to comment on these requirements is invited to do so. Comments on these requirements should be submitted to OMB, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Part 86

Administrative practice and procedure, Confidential business information, Labeling, Motor vehicle pollution, and Reporting and recordkeeping requirements.

Dated: May 14, 1992.

William K. Reilly,
Administrator.

For the reasons set forth in the preamble, 40 CFR part 86, is proposed to be amended as follows:

PART 86—CONTROL OF AIR POLLUTION FROM NEW AND IN-USE MOTOR VEHICLES AND NEW AND IN-USE MOTOR VEHICLE ENGINES: CERTIFICATION AND TEST PROCEDURES

1. The authority citation for part 86 continues to read as follows:

Authority: Secs. 202, 203, 205, 206, 207, 208, 215, 216, and 301(a) of the Clean Air Act, as amended; 42 U.S.C. 7521, 7522, 7524, 7525, 7541, 7542, 7549, 7550, and 7601(a).

2. Section 86.1105-87 of subpart L is proposed to be amended by revising paragraph (e) and adding paragraph (f) to read as follows:

§ 86.1105-87 Emission standards for which nonconformance penalties are available.

(e) The values of COC_{90} , COC_{90} , and MC_{90} in paragraphs (a) and (b) of this section are expressed in December 1984 dollars. The values of COC_{90} , COC_{90} , and MC_{90} in paragraphs (c) and (d) of this section are expressed in December 1989 dollars. The values of COC_{90} , COC_{90} , and MC_{90} in paragraph (f) of this section are expressed in December 1991 dollars. These values shall be adjusted for inflation to dollars as of January of the calendar year preceding the model year in which the NCP is first available by using the change in the overall Consumer Price Index, and rounded to the nearest whole dollar in accordance with ASTM E29-87 (reapproved 1980). The incorporation by reference of ASTM E29-87 (reapproved 1980), Standard

Recommended Practice for Indicating Which Places of Figures are to be Considered Significant in Specified Limiting Values, was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. It is available from ASTM, 1916 Race Street, Philadelphia, PA 19103, and also available for inspection as part of Docket A-91-06, located at the Central Docket Section, EPA, 401 M Street, SW., Washington, DC or at the Office of the Federal Register, 1100 L Street, NW., room 8401, Washington, DC. This incorporation by reference was approved by the Director of the Federal Register on January 13, 1992. These materials are incorporated as they exist on the date of the approval and a notice of any change in these materials will be published in the *Federal Register*.

(f) Effective in the 1994 model year, NCPs will be available for the following emission standards:

(1) Petroleum-fueled urban bus engine (as defined in § 86.091-2) particulate emission standard of 0.05 grams per brake horsepower-hour.

(i) The following values shall be used to calculate an NCP for the standard set forth in § 86.094-11(a)(1)(iv)(A) in accordance with § 86.1113-87(a):

(A) COC₅₀: \$5,459;

(B) COC₉₀: \$10,014;

(C) MC₅₀: \$109.179 per gram per brake horsepower-hour;

(D) F: 1.2.

(ii) The following factor shall be used to calculate the engineering and development component of the NCP for the standard set forth in § 86.904-11(a)(1)(iv)(A) in accordance with § 86.1113-87(h): 0.23.

(2) Petroleum-fueled diesel heavy-duty engine particulate matter emission standard of 0.10 grams per brake horsepower-hour.

(i) For petroleum-fueled light heavy-duty diesel engines:

(A) The following values shall be used to calculate an NCP in accordance with § 86.1113-87(a):

(1) COC₅₀: \$772;

(2) COC₉₀: \$1,840;

(3) MC₅₀: \$8,178 per gram per brake horsepower-hour;

(4) F: 1.2.

(B) The following factor shall be used to calculate the engineering and development component of the NCP in accordance with § 86.1113-87(h): 0.081.

(ii) For petroleum-fueled medium heavy-duty engines:

(A) The following values shall be used to calculate an NCP in accordance with § 86.1113-87(a):

(1) COC₅₀: \$1,276;

(2) COC₉₀: \$3,298;

(3) MC₅₀: \$15,370 per gram per brake horsepower-hour;

(4) F: 1.2.

(B) The following factor shall be used to calculate the engineering and development component of the NCP in accordance with § 86.1113-87(h): 0.098.

(iii) For petroleum-fueled heavy heavy-duty diesel engines:

(A) The following values shall be used to calculate an NCP in accordance with § 86.1113-87(a):

(1) COC₅₀: \$2,105;

(2) COC₉₀: \$6,978;

(3) MC₅₀: \$30,070 per gram per brake horsepower-hour;

(4) F: 1.2.

(B) The following factor shall be used to calculate the engineering and development component of the NCP in accordance with § 86.1113-87(h): 0.083.

3. Section 86.1106-87 is proposed to be amended by revising paragraph (a)(2) to read as follows:

§ 86.1106-87 Production compliance auditing.

* * *

(a) * * *

(2) PCA testing must be conducted on the same configurations that exceeded the standard in certification. In lieu of the requirement, the Administrator may approve testing of a greater or lesser number of configurations provided the manufacturer agrees to pay the NCP determined from the CL of each tested configuration for that configuration and for other non-tested configurations that have similar emission characteristics. If an acceptable showing of similar emission characteristics is not made, the highest CL of the configurations tested will apply to all non-tested configurations exceeding the standard.

* * *

[FR Doc. 92-12179 Filed 5-28-92; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 92-105; FCC 92-203]

The Use of N11 Codes and Other Abbreviated Dialing Arrangements

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This Notice of Proposed Rulemaking invites comments on proposed changes to our rules that would require local exchange carriers to provide abbreviated dialing arrangements. The Commission

tentatively concluded that 211, 311, 511 and 711 should be available for abbreviated dialing and that 611 and 811 should be available, at least wherever those codes are not currently used for other purposes. No change was proposed in the use of 911 and 411.

DATES: Comments must be filed on or before June 5, 1992 and reply comments must be filed on or before June 22, 1992.

ADDRESSES: To file formally in this proceeding, participants must file an original and four copies of all comments and reply comments with the Secretary, Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Peyton Wynns, Common Carrier Bureau, Industry Analysis Division, (202) 632-0745.

SUPPLEMENTARY INFORMATION: This Notice of Proposed Rulemaking was adopted by the Commission May 4, 1992 and released May 6, 1992. The rulemaking addresses the broad questions surrounding assignment of N11 codes. The Commission asked for comments on issues including: whether the availability of these codes should be broader than enhanced service providers; the means of allocating these codes; the role of state regulators; and the feasibility of alternative dialing arrangements. Given the extremely limited number of service codes available in each geographic area, it seems conceivable that these codes may acquire some value and that the holders of such codes may wish to sell or transfer their numbers to others. The Commission also asks for comment as to whether these numbers should be treated in this regard in the same manner as other telephone numbers. While the configuration of the national numbering plan is necessarily interstate the codes themselves may in some cases be used for intrastate enhanced services. Accordingly, comments are requested as to what role, if any, state regulators should have in the allocation of N11 numbers in the event demand exceeds the available supply of such numbers.

Parties should also file one copy with the Commission's copy contractor, Downtown Copy Center, 1919 M Street NW., room 246. The full text of this request for comments is available for inspection and copying during regular business hours in the Docket Reference Room, and may be purchased from Downtown Copy Center (202) 452-1422.

If participants wish each Commissioner to have a personal copy of their comments, an original plus nine copies must be filed.

List of Subjects in 47 CFR Part 64

Communications common carriers.

[Authority: 47 U.S.C. 154, 201-4, 218, 225, 228, 227]

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 92-12552 Filed 5-28-92; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****49 CFR Part 571**

[Docket No. 74-09; Notice 25]

RIN 2127-AE39

Child Restraint Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: The National Highway Traffic Safety Administration Authorization Act of 1991 directs this agency to initiate rulemaking on child booster seat safety. In response to this statutory mandate, this notice requests comments on three issues regarding improved booster seat safety. The first issue concerns improving the compliance test procedures for boosters, primarily by increasing the variety in the sizes of dummies specified in the compliance test procedures for Standard 213 and by changing the test criteria for belt-positioning boosters (boosters designed to be used with the vehicle's lap/shoulder belts). The second issue involves the injury and performance criteria of the standard, especially with regard to possible new requirements (e.g., a limit on abdominal pressure, and performance requirements for belt-positioning boosters). The third issue relates to proper use of booster seats, i.e., how to increase the likelihood that consumers will follow a manufacturer's recommendations for restraint use.

The public is invited to comment on whether regulatory action is appropriate and, if so, what form that action should take.

DATES: Comments on this notice must be received by the agency no later than July 28, 1992.

ADDRESSES: Comments should refer to the docket number and notice number and be submitted in writing to: docket Section, National Highway Traffic Safety Administration, Room 5109, 400

Seventh Street, SW., Washington, DC, 20590. Telephone: (202) 366-5267. Docket hours are 9:30 a.m. to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Dr. George Mouchahoir, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC, 20590 (telephone 202-366-4919).

SUPPLEMENTARY INFORMATION:**General Introduction****Statutory Mandate**

President Bush signed the "Intermodal Surface Transportation Efficiency Act of 1991" on December 18, 1991 (Pub. L. 102-240). That Act is intended to develop a national intermodal surface transportation system and sets forth guidance and mandates for several different modal administrations within the Department of Transportation. Sections 2500-2509 of this Act are called the "National Highway Traffic Safety Administration Authorization Act of 1991." These sections authorize appropriations for the agency for fiscal years 1992 through 1995 and direct the agency to take certain actions.

The National Highway Traffic Safety Administration Authorization Act of 1991 directs NHTSA to initiate rulemaking on a number of safety matters no later than May 31, 1992. Included among those matters is child booster seat safety (section 2503). Today's ANPRM initiates the rulemaking required by sections 2502 and 2503 of the Authorization Act.

Booster Seats

Booster seats are currently regulated by Federal Motor Vehicle Safety Standard No. 213, Child Restraint Systems. Standard 213 applies to any device, except Type I or Type II seat belts, designed for use in a motor vehicle or aircraft to restrain, seat, or position children who weigh 50 pounds or less. The standard defines a "booster seat" as "a child restraint which consists of only a seating platform that does not extend up to provide a cushion for the child's back or head." S4. Booster seats are designed to be used by older children who have outgrown a child seat. Generally, these children are four to eight years old and weigh 30 to 70 pounds.

Standard 213 evaluates the performance of child restraint systems in dynamic tests under conditions simulating a frontal crash of an average automobile at 30 miles per hour (mph). Most restraints must be anchored with only a lap belt during agency compliance testing. However, the

standard allows a booster seat that is designed with a top anchorage strap (tether strap) to be tested at 30 mph with the tether attached. The agency believes all booster seats are currently manufactured without the tether.

The dynamic tests are conducted using a test dummy. A dummy representing a three-year-old child, weighing 33 pounds, is used for testing booster seats. S7.2 of Standard 213. The dummy is instrumented with accelerometers for measuring accelerations in the head and chest during impacts. See, 49 CFR part 572, subpart C.

The requirements to be met in the dynamic testing of booster seats include maintaining the structural integrity of the seat, retaining the head and knees of the dummy within specified excursion limits (limits on how far those portions of the body may move forward), and limiting the forces exerted on the head and chest of the dummy by the seat. These requirements reduce the likelihood that the child using a booster seat will be injured by the collapse or disintegration of the seat, or by contact with the interior of the vehicle, or by imposition of intolerable forces by the seat.

Legislative Background

Booster seats are one of the matters to which NHTSA was directed by the Authorization Act to give priority consideration and initiate rulemaking. The legislative history for the directive, found in section 2503 of the Authorization Act, sheds light on the legislative mandate. The directive evolved from a booster seat safety provision in S. 1012, a bill reported by the Senate Committee on Commerce, Science, and Transportation, and added verbatim to the Senate's surface transportation bill (S. 1204). (S. 1012, 102d Cong., 1st Sess. section 209 (1991).) As adopted by the Senate, the provision would have required rulemaking to be initiated within 30 days after the date of enactment of the Authorization Act and completed within 12 months after the date of the enactment. The Senate Commerce Committee report on S. 1012 expressed concern about suggestions that booster seats, "depending on their design, can be easily misused or are otherwise harmful." The Committee also stated that the mandate in S. 1012 was a response to concerns expressed in a study performed for NHTSA entitled, "Evaluation of the Performance of Child Restraint Systems." According to the Committee, the study showed that some booster seats "may not restrain adequately a child in a crash, and some

may put pressure on the child's abdomen during a crash." Senate Committee on Commerce, Science, and Transportation, S. Rep. No. 83, 102d Cong., 1st Sess. 6, 18 (1991).

The conferees adopted the booster seat provision from the Senate bill, but amended it so that it no longer required that the booster seat rulemaking be both initiated and completed within a specified period of time. Instead, it simply required that rulemaking on that subject be initiated within a specified period of time. Conference Report to Accompany H.R. 2950, H.R. Conf. Rep. No. 404, 102d Cong., 1st Sess. (1991).

The Booster Seat Study

The booster seat study mentioned in the legislative history for H.R. 2950 was performed for NHTSA by Calspan Corporation. The study, "Evaluation of the Performance of Child Restraint Systems," DOT HS 807 297, May 1988, evaluated the performance of "shield-type" booster seats in restraining children of the size and age for whom those seats were recommended. Shield-type boosters are designed to be secured to the vehicle seat by a lap belt that usually is placed around the shield. The shield restrains the upper torso of the child from moving forward in a frontal crash or sudden stop.

Concern about shield-type boosters arose from the recommendations by manufacturers about the size of children which could appropriately use a particular booster. Particular designs or models of boosters were typically recommended for a broad range of children. Often, the seats were recommended for use by children weighing from about 20 to 70 pounds. Such recommendations engendered concerns as to whether these boosters could provide adequate protection for children ranging from nine-month-old infants (average weight 20 pounds) to six-year-old (48 pounds) and older children.

The study addressed issues that are not addressed by Standard 213. The ability of the restraint to protect children at or near the extremes of the recommended weight range cannot currently be determined in Standard 213 compliance testing. The booster's compliance with the standard is evaluated using only the three-year-old (33 pound) child dummy. So tested, the restraints meet Standard 213.

However, the Calspan program was not limited to the three-year-old dummy. Two other dummies were used, one representing a nine-month-old infant and the other, a six-year-old child. The array of dummies represented children at the extremes of the weight ranges

identified by the manufacturer as being suitable for the restraint.

The Calspan research program tested 11 booster seats, all the booster seats on the market during summer 1987. All 11 boosters were recommended for use by children weighing a minimum of 25 to 55 or more pounds, and were tested in a 30 mph sled test with the three-year-old and six-year-old dummies. Six booster seats were recommended for use by children weighing 25 pounds or less. These seats were tested with the nine-month-old dummy, in addition to the other dummies.

The Calspan tests also related to issues concerning child abdominal injury. In the event of a crash, almost all restraint provided by the shield-type booster seat is accomplished by the small shield. Because of this, there was a concern that the pressure of the impact exerted by the small surface area of the shield might cause abdominal injuries. The Calspan study evaluated two different means for measuring pressures imposed on the dummy's abdomen during impacts. One method used a special measuring device, developed by the University of Michigan Transportation Research Institute (UMTRI), to directly measure the pressure exerted during the crash on the dummy's abdomen. This device consisted of a water-filled rubber tube wrapped around the lumbar spine in the abdominal cavity of the dummy and connected to a piston/cylinder that is positioned behind the dummy's thoracic spine. The other method did not directly measure pressures exerted on the dummy's abdomen during a crash test. Instead, it calculated average abdominal pressures during impact from measurements of the force in the vehicle lap belt restraining the shield-type booster seat and measurements of the area of contact between the dummy's abdomen and the shield of the booster seat.

Calspan's Findings in the Research Program

In the previously discussed research program, Calspan found dummy head excursions exceeding the 32 inch limit specified in Standard 213. In tests with the six-year-old dummy, the head excursion limit was exceeded by 10 out of 11 booster seat models, with measurements in the range from 32.0 to 35.4 inches. In the research tests with the three-year-old dummy, the head excursion limit was exceeded by five of the 11 models. Head excursions did not exceed the limit in tests with the nine-month-old dummy.

Calspan also tested four of the shield-type booster seats that were

recommended for older children by restraining the six-year-old dummy in the seat with a three-point auto harness. Three of the models showed HIC numbers of approximately 900, the fourth had a HIC of 1238.

Calspan observed dummy ejections from the seats during the rebound phase of the dynamic test. Ejections occurred for three out of six models tested with the nine-month-old dummy, for two models tested with the three-year-old dummy, and for one model tested with the six-year-old dummy.

With respect to the methods for measuring the test dummy's abdominal loads, Calspan found that the UMTRI pressure device is location sensitive, i.e., it only measures loads applied directly to it. Calspan believed that use of the device might have to be limited to systems applying loads to the dummy's mid-abdomen section, such as vehicle belts or low, narrow shield restraints. Also, the abdominal pressures measured with the UMTRI device in the three- and six-year-old dummies "seemed to be erratic during the tests. This may have been due to the vertical location or to the various sizes and shapes of the impacting shields." ("Evaluation of the Performance of Child Restraint Systems," at 64.)

Calspan calculated dummy abdominal pressures using the belt load/contact area pressure measuring method. The boosters exhibited a wide range of impact pressure levels on the abdomen of the dummies. The abdominal pressures in tests with the nine-month-old dummy ranged from 18.7 psi to 32.8 psi, with the three-year-old dummy from 22.9 psi to 49.8 psi, and with the six-year-old dummy from 31.4 psi to 47.0 psi. However, measuring belt loads and contact areas was difficult in some cases, introducing possible variability into the measurements.

Follow Up Testing

NHTSA conducted additional research testing following the Calspan study. The purposes of the tests were to obtain more data about booster seat performance with different dummies, and to determine the extent to which the UMTRI abdominal insert affected the earlier Calspan results. Because UMTRI's insert has a cylinder that is positioned behind the dummy's thoracic spine, the cylinder affects the dummy's seated posture by preventing the dummy from sitting normally, with its back flat against the seat.

Nine booster seats were tested with the three dummies used in the Calspan study. The seats performed well with the three-year-old dummy; the

performance measures of Standard 213 were satisfied. However, the seats were generally unsuitable for the nine-month-old dummy. The dummy was ejected from seven of nine seats. Similarly, the seats generally did not provide adequate restraint for the six-year-old dummy. Seven of nine seats yielded head excursions that exceeded 32 inches. Two of the seats also had structural failures with the six-year-old dummy. Further, the tests indicated that there is no difference in performance between the six-year-old dummy instrumented with the UMTRI device and the standard six-year-old dummy. Differences in performance were observed, however, between the instrumented and standard three-year-old test dummies. "Evaluation of Booster Seat Suitability for Children of Different Ages and Comparison of Standard and Modified SA103C and SA106C Child Dummies," VRTC-89-0074, February 1990.

Definition of the Problem

This ANPRM focuses on three issues relating to the Calspan and NHTSA booster seat studies. Before discussing those issues, however, an epilogue to the Calspan study warrants discussion. As a result of the Calspan study and other factors, many manufacturers have voluntarily narrowed their recommendations for the use of the restraints. They have raised the lower weight recommendation for children, in some cases from 20 pounds in 1988 (for boosters evaluated by Calspan) to a minimum of 25 pounds in 1991, and to a minimum of 30 pounds in 1992. Some manufacturers have raised the minimum recommended weight even higher. The newest certified booster seat on the market is recommended for children weighing at least 40 pounds, when used with the shield.

These actions are consistent with improving booster seat safety. The boosters are no longer recommended by the manufacturer for use with younger children (who weigh less than the 30 or 40 pound limit), children for whom the seat may be unsuitable, as illustrated by the ejections of the nine-month-old dummy in the Calspan and NHTSA studies. NHTSA recommends that children not use a booster seat until they outgrow a convertible or toddler seat, which generally does not occur before the child weighs 40 pounds. See, e.g., NHTSA Consumer information guide, "Transporting Your Children Safely," January 1989.

Booster seat safety might be further improved, however. The first two issues of this ANPRM relate to improved booster seat designs. The first issue

concerns improving the compliance test procedures for boosters, primarily by proposing to incorporate additional dummies into the procedures for Standard 213 and by changing the test criteria for belt-positioning boosters (boosters designed to be used with the vehicle's lap/shoulder belts). The second issue concerns the injury and performance criteria of the standard, especially with regard to possible new requirements (e.g., abdominal pressure, and performance requirements for belt-positioning boosters). The third issue of this ANPRM relates to booster seat misuse, i.e., how to increase the likelihood that consumers will follow the manufacturers' recommendations for restraint use.

These issues have been identified as topics for possible rulemaking in NHTSA's planning document on possible upgrades to Standard 213. In July 1991, the agency published a notice requesting comments on the planning document. 56 FR 32544, July 17, 1991. Numerous comments were submitted. (See, docket No. 74-09, notice 21.) Today's ANPRM parallels the 1991 notice to the extent that the two notices discuss similar issues. Unlike the 1991 notice however, the ANPRM requests comments on specific questions. It is not necessary for commenters to resubmit general views on this ANPRM that were expressed in previous comments on the planning document.

The notice makes a number of requests for comments and data. For easy reference, the requests are numbered consecutively through the notice. In providing a comment on a particular matter or in responding to a particular question, interested persons are requested to provide any relevant factual information to support their conclusions, including but not limited to cost, medical, statistical and biomechanical data, and the source of such information.

No rule will be issued on the matters discussed in this ANPRM without a notice of proposed rulemaking and an opportunity to comment.

Issues for Possible Agency Action

Improved Test Procedures

Test Dummies

Standard 213 incorporates two test dummies into the compliance test procedures. The three-year-old, 33 pound, dummy is used for testing a child restraint system that is recommended by its manufacturer for children weighing more than 20 pounds, such as booster seats. An uninstrumented test dummy representing a six-month-old child is used for testing a restraint that is

recommended by its manufacturer for use by children weighing 20 pounds or less. That dummy weighs approximately 17 pounds, and is specified in Part 572 NHTSA's regulations (40 CFR part 572, subpart D).

The test procedures for booster seats, as well as other types of child restraints, would be improved if additional test dummies representing children of different ages (i.e., heights and weights) were used in the compliance tests. NHTSA is taking steps towards that end. The agency has completed rulemaking on part 572 to adopt specifications for an uninstrumented nine-month-old (20 pound) and an instrumented six-year-old (48 pound) dummy. See, 56 FR 41077, August 19, 1991; 56 FR 57830, November 14, 1991. NHTSA is continuing research on an instrumented nine-month old dummy and anticipates proposing such a dummy in the near term. In addition, the agency proposed specifications for a newborn (7.5 pound) infant dummy. 56 FR 38108, August 12, 1991.

In conjunction with the incorporation of the dummies into Part 572, the agency plans to undertake rulemaking on the issue of adopting the dummies into the test procedures of Standard 213. S7.2 of the standard could be amended in the following manner. A restraint that is recommended for use by children in a weight range that includes children weighing not more than 7.5 pounds would be tested with the newborn dummy; from 7.5 to 20 pounds, with both the newborn and the nine-month-old dummy; from 20 to 33 pounds, with both the nine-month-old and three-year-old dummy; from 33 to 40 pounds, with the three-year-old dummy; and 40 pounds and above, with the six-year-old dummy. The agency anticipates proposing these, or similar, weight ranges in the near future.

1. The agency requests comments on the suggested weight ranges, especially on those for booster seats. Under the suggested test program, a booster seat that is recommended for children weighing between 35 and 60 pounds would be tested with the three-year-old and six-year-old dummy. Is such testing sufficient to ensure that the seat provides adequate protection to all the children likely to use the seat? Which currently-manufactured restraints are able to meet Standard 213 requirements using the suggested weight ranges for the testing?

2. Standard 213 applies to restraint systems designed for children who weigh 50 pounds or less. A few booster seats are recommended for children who weigh up to 60 to 70 pounds. Also, some

restraint devices are sold solely for children who weigh more than 50 pounds. Raising the 50 pound limit to a greater weight would apply the standard to a greater population of restraint systems. What are the burdens and benefits of raising the 50 pound limit? To what weight should the limit be raised?

3. Standard 213 tests booster seats in the forward-facing position. Should the restraints also be tested on a rearward-facing seat assembly, since rearward-facing passenger seats may become increasingly available in some vehicles and aircraft? Should booster seats certified for use on aircraft be tested on a seat assembly with breakover features? Should an aircraft safety belt (with the buckle location accurately simulated) be used in the compliance test?

Belt Restraint—Belt Positioning Boosters

Standard 213 standardizes the means for attaching child restraints by requiring all of them to be capable of being attached to the vehicle seat and providing the required protection using only the vehicle lap belt. (As stated earlier in this notice, a few types of restraints, including boosters, may use a top tether in the 30 mph dynamic test, although no such booster is currently manufactured for sale in the United States.) The lap belt-only requirement originated from two considerations. The first consideration is real world representation. NHTSA devised Standard 213's test procedure to use a standard seat assembly in the dynamic testing. The seat assembly is used to represent the typical vehicle bench seat, to avoid the cost of testing child restraints on numerous vehicle seats. The typical bench seat previously had a lap belt, and not a lap/shoulder belt.

The second consideration is misuse. The lap belt-only requirement ensures that the restraint will provide adequate safety even if a supplemental restraint (e.g., a top tether or the shoulder portion of the lap/shoulder combination) is not used.

Although those considerations were served by the lap belt-only requirement, today's concerns about shield-type boosters have arisen, at least in part, because of that requirement. The only means currently available for a booster seat to meet Standard 213's performance criteria (for upper torso restraint) when attached with a lap belt is to use either a tether strap (in combination with a harness) or a shield in front of the child. Boosters are permitted to use a tether in the 30 mph dynamic test because some researchers were concerned about the safety of the only viable alternative to

the tether, the shield-type booster. (See, 51 FR 5335; February 13, 1986.) Those concerns engendered the Calspan booster test program for NHTSA.

NHTSA seeks to reevaluate the lap belt-only requirement in Standard 213 in light of changing circumstances. Federal Motor Vehicle Safety Standard No. 208, Occupant Crash Protection, has recently been amended to require lap/shoulder belts in all rear outboard seat positions in passenger cars, light trucks, sport utility vehicles and vans. Thus, the representativeness of the standard seat bench used in compliance tests needs to be reassessed.

Restraint systems that are designed to be used with the vehicle's lap/shoulder belt system, commonly referred to as "belt-positioning booster seats," are becoming increasingly available in Australia and Europe for older children. These boosters use the shoulder belt in the vehicle for upper torso support. UMTRI petitioned NHTSA in 1990 to "allow the manufacture and sale of lap/shoulder belt-positioning boosters, with appropriate limit on seating-height, cushion-compression, and weight (for those designs with backs)." See, NHTSA docket PRM-213-019. UMTRI believes the boosters are "simple, inexpensive, but effective." NHTSA granted the petition in November 1990.

UMTRI's high regard for belt-positioning boosters is shared by others. Comments on NHTSA's planning documents unanimously endorsed the boosters. In addition, in commenting on President Bush's regulatory review, Ford suggested that NHTSA immediately provide for the manufacture and sale of belt-positioning boosters. Ford said that NHTSA should "promptly propose an amendment of [Standard 213] that would simply state 'Any belt-positioning booster seat that meets the requirements of [Regulation No. 44 of the United Nations Economic Commission for Europe (ECE)] is accepted as meeting the requirements of this standard.'"

4. NHTSA generally concurs with these favorable opinions about belt-positioning boosters. However, NHTSA seeks comment on whether there are negative safety aspects of belt-positioning boosters. One obvious concern is the potential that the booster will be misused by the consumer who attaches it with only a lap belt. Such an attachment provides no upper torso restraint. UMTRI acknowledges in its petition that the risk of misuse exists, but believes that the risk would be more than offset by the benefit of making lap/shoulder belts more usable by children.

NHTSA seeks information on the risk of misuse of belt-positioning boosters and experiences regarding such misuse

in Australia and Europe. Further, NHTSA seeks comment on how these misuse problems were addressed in those countries.

5. In the event the agency decides to issue an NPRM on belt-positioning boosters, several questions about the test procedure would have to be addressed in the rulemaking. One of these questions is whether the procedures should distinguish between shield-type boosters and belt-positioning boosters. Should shield-type boosters be tested with a lap belt, and belt-positioning boosters with a lap/shoulder belt? Should all restraints be tested with a lap/shoulder belt? Given the mix of vehicles in the fleet with lap and lap/shoulder belts, should some child restraints be required to meet Standard 213's performance requirements with both types of belts? Should shield-type boosters continue to be permitted by Standard 213?

6. Regardless of whether Standard 213's procedures would differentiate between shield-type and belt-positioning boosters, NHTSA might seek to amend the present definition of a "booster seat" in S4 of the standard. How should "booster seat," or "belt-positioning booster seat" be defined? Some belt-positioning booster seats do not have a cushion for the child's back, while NHTSA has observed two such boosters to have a seat back. Which components, if any, of the booster seat should be identified in the definitions?

7. If the test procedure is to be revised to specify testing with a lap/shoulder belt system, a standard vehicle seat using the belt system would have to be developed. Comments are requested on the specifications for the seat, especially the location of the anchorage points for the vehicle belts and the geometry of the lap/shoulder belt system.

8. Child restraint systems that are certified for aircraft use must pass all the motor vehicle use requirements of Standard 213 and additional requirements for aircraft use specified in the standard. (S8) Restraints are currently tested to the motor vehicle and the aircraft requirements using only a lap belt. Are belt-positioning boosters suitable for use in aircraft? Aircraft seats typically have only a lap belt.

Performance Criteria

Belt-positioning boosters designed for children who weigh 50 pounds or less are "child restraint systems" under Standard 213. They are required to comply with all of Standard 213's requirements for child restraint systems. The current requirements include those for dynamic performance (e.g., system

integrity, injury criteria, occupant excursion), protrusion limitation, installation requirements, belt restraint, flammability and labeling.

Belt-positioning boosters that must use the vehicle's shoulder belt for upper torso restraint generally cannot meet the standard's requirements. Since the boosters are designed for use with the vehicle's lap/shoulder belt, the standard's dynamic performance requirements (which must be met using the lap belt only) are problematic. Yet, the belt-positioning boosters appear to perform well within the performance criteria of the standard when tested with the lap/shoulder belt. The boosters also have difficulty meeting S5.3.2 of the standard. S5.3.2 states: "When installed on a vehicle seat, each add-on [i.e., portable] child restraint system, other than child harnesses, shall be capable of being restrained against forward movement solely by means of a Type I seat belt assembly * * * or by means of a Type I seat belt assembly plus one additional anchorage strap that is supplied with the system and conforms to S5.4." (A Type I seat belt assembly is defined in FMVSS No. 209, Seat Belt Assemblies, as a lap belt.)

9. Assuming NHTSA decides to amend Standard 213 to facilitate the manufacture of belt-positioning boosters, what performance criteria should apply to the boosters? UMTRI states in its rulemaking petition that there are several factors that affect a booster's performance, such as cushion stiffness, belt-routing geometry, height, and weight (if the booster has a back). UMTRI was particularly concerned about limits on weight (for boosters with backs) and cushion-compression. A weight limit is intended to ensure that no unsafe load from the mass of the restraint (especially the booster's back) is imposed on the child in a crash. A compression limit is intended to reduce the likelihood that the child is ejected forward under the lap belt portion of the belt system, feet first (i.e., "submarining" under the belt) in a crash.

Comments are requested on these, and any other, performance parameters. If such parameters are needed, what specific criteria should be specified? Which components, if any, should be required to be present on a belt-positioning booster?

Comments are also requested on the relevance and adequacy of existing standards for booster seats, such as ECE 44's requirements for boosters.

Should the test procedure and performance criteria for belt-positioning boosters address the possible problem that the boosters might be misused with a lap belt only, by specifying a minimum

performance requirement that the belt-positioning booster must meet when attached by only a lap belt?

10. Should new injury criteria be specified for booster seats and other child restraint systems? Comments are specifically requested on criteria for neck and abdominal loads. NHTSA seeks information on the availability of practicable instrumentation to measure the loads, including the reliability of the devices, and the tolerances of various age/size child groups regarding neck and abdominal loads.

Use Restrictions

The proper use of restraint systems directly relates to the improved test procedures and performance criteria that might be adopted for booster seats. If improvements are adopted, the corresponding improvements in child safety seats could be offset if the seat is misused by the consumer. A few of the injuries in the agency's accident file are to two-year-old children who were restrained in a booster seat. NHTSA seeks information on means that could help increase the likelihood that the consumer will follow the manufacturer's instructions for using these restraints.

11. Standard 213's labeling and manufacturer instructions requirements encourage the correct use of child restraints. The manufacturer must inform the consumer of the recommended maximum height and weight of children who can safely occupy the system. Does height and weight information sufficiently describe the children for whom the restraint is recommended, or should other/additional criteria be specified? If so, what should they be and why? Should the same criteria be used for recommendations about infant, toddler, convertible, shield-type and belt-positioning boosters?

12. Should shield-type and belt-positioning boosters be recommended for different size and weight children? What should be the recommended height and weight for children occupying shield-type and belt-positioning boosters?

13. What means other than labeling and use instructions are available that might help increase the correct use of these restraints?

Potential Regulatory Impacts

NHTSA has examined the impact of this rulemaking action and determined that it is not significant within the meaning of the Department of Transportation's regulatory policies and procedures. NHTSA has prepared a preliminary regulatory evaluation (PRE) for this notice which discusses the

potential costs, benefits and other impacts of this regulatory action. The PRE is available from NHTSA's docket section at the address and telephone number provided at the beginning of this notice. Because the types of child restraint systems that may be affected by further regulatory action are not defined at this stage in the rulemaking, the agency is unable at this time to quantify the benefits and cost impact of the possible actions discussed herein. Further, the agency does not know at this time which of the possible actions will be the subject for further rulemaking.

The PRE provides some preliminary estimates for the cost of the test equipment and procedures used for Standard 213 compliance testing. The currently specified three-year-old dummy costs about \$10,840. The 1991 price of an uninstrumented six-year-old dummy is \$15,350. Since the dummies are designed to be reusable, their costs can be amortized over a number of tests. Based on information from current Standard 213 compliance tests, NHTSA estimates that the cost of using two dummies per child restraint would be approximately \$1,500.

With respect to the Regulatory Flexibility Act, NHTSA tentatively believes that the regulatory action that the agency may eventually take would not have a significant impact on a substantial number of small entities. There are approximately 11 manufacturers of child restraint systems. Of these, at most only six might be considered small businesses. These businesses do not comprise a substantial number of small entities that are affected by this rule.

Small organizations and governmental jurisdictions might be affected by the rule if these entities procure child restraint systems for programs such as loaner programs. If the cost of the restraint were to increase, loaner program procurements might have to be reduced. However, if the cost increase is minimal, the reduction in procurements would be marginal. NHTSA notes that the design of the booster seat is relatively simple, and that any changes that might have to be made to the design might not be very expensive to implement. If that is the case, this rulemaking would not have a significant economic impact on these entities.

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Comments

NHTSA solicits public comments on this notice. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulate. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for the advance proposal will be considered. To the extent possible, comments filed after the closing date will also be considered. Comments on the advance proposal will be available for inspection in the docket.

The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date. It is therefore recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

Authority: Secs. 2502 and 2503, Pub. L. 102-240, 105 Stat. 2081-2083; 15 U.S.C. 1392, 1401, 1403, 1407, delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on May 26, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-12556 Filed 5-28-92; 8:45 am]

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49 CFR Part 571

[Docket No. 74-14; Notice 73]

RIN 2127-AE48

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA); DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The National Highway Traffic Safety Administration Authorization Act of 1991 directs this agency to publish a notice initiating a rulemaking addressing improved design for safety belts. In response to this statutory mandate, this notice requests comments on possible means of improving safety belt comfort and fit. One means would be a requirement that the shoulder portion of safety belts pass within specified zones on the chest and shoulder of four different size test dummies, ranging in size from a 6-year-old child dummy to a 95th percentile adult male dummy. Another means would be a less specific requirement that the shoulder portion of safety belts be either automatically adjusted or manually adjustable to fit different sized occupants. The public is invited to comment on whether some regulatory action is appropriate and, if so, what form that action should take.

DATES: Comments on this notice must be received by NHTSA not later than July 28, 1992.

ADDRESSES: Comments should refer to the docket and notice number set forth in the heading of this notice and be submitted to: NHTSA Docket Section, room 5109, 400 Seventh Street, SW., Washington, DC 20590. The NHTSA Docket Section is open to the public from 9:30 am to 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Mr. Clarke Harper, Frontal Crash Protection Division, Office of Vehicle Safety Standards, NRM-12, 400 Seventh Street, SW., Washington, DC 20590. Mr. Harper can be reached by telephone at (202) 366-4916.

SUPPLEMENTARY INFORMATION:**Statutory Mandate**

President Bush signed into law the "Intermodal Surface Transportation

Efficiency Act of 1991" on December 18, 1991 (Pub. L. 102-240). That Act is intended to develop a national intermodal surface transportation system and sets forth guidance and mandates for several different modal administrations within the Department of Transportation. Sections 2500-2509 of this Act are called the "National Highway Traffic Safety Administration Authorization Act of 1991." These sections authorize appropriations for the agency for fiscal years 1992 through 1995 and direct the agency to take certain actions.

Section 2503(4) of this Act requires the NHTSA to address the matter of improved design for safety belts, in accordance with the procedures set forth in section 2502 of the Act. In response to this statutory mandate, NHTSA is issuing this advance notice of proposed rulemaking.

Current Requirements Regarding Belt Fit and Comfort

NHTSA current addresses the matter of belt fit and comfort in two different safety standards. Standard No. 209, Seat Belt Assemblies (49 CFR 571.209), requires seat belts to adjust to fit a range of occupant sizes (S4.1(g)), limits the force required to adjust the belt size downward (S4.3(e)), and limits the retraction force that can be exerted by an emergency locking retractor (S4.3(j)). Standard No. 208, Occupant Crash Protection (49 CFR 571.208), requires that the belt assemblies installed in vehicles adjust to fit a wide range of occupant sizes (S7.1) and that the belts exert a contact force on the upper torso of not more than 0.7 pounds (S7.4.3).

Notwithstanding these provisions, NHTSA is aware that belt fit and comfort has been a concern expressed by some persons. The persons who have most often expressed concern to the agency regarding belt fit and comfort have tended to be short people, especially short women. In response to these concerns, NHTSA has on several occasions previously addressed the subject of belt fit and comfort.

Prior Agency Actions Regarding Belt Fit and Comfort

NHTSA published an advance notice of proposed rulemaking (ANPRM) on the subject of belt fit and comfort on December 16, 1976 (41 FR 54961). That ANPRM included the following discussion:

To improve and maintain comfort and "fit," the shoulder belt would be required to pass through seat-mounted guides to prevent change in belt geometry with changes in seat position. . . . The NHTSA recognizes that

the geometric location of the upper torso restraint anchorage has contributed substantially to the public's complaints of lack of comfort and fit. Permanently attaching the upper torso restraint to the top of the seat back is one means of improving fit. Information is therefore requested on the complexity of integrating the upper torso restraint, as well as the lap belt, into the seat structure.

The concept of belt assembly "fit" would be extended to require that a 5th percentile female would be capable, while restrained at the driver's position, of reaching the vehicle's driving controls, the glove compartment latch, the nearest ash tray, the left front window handle, the seat adjustment control, and the locks on both front doors. 41 FR 54962.

Many of the commenters to this ANPRM argued that the proposed "fit" requirements were impracticable, inordinately costly, and extended beyond the concept of proper belt fit and comfort. After analyzing these comments and some additional data, the agency devised a more specific belt fit requirement that was published in a December 31, 1979 notice of proposed rulemaking (44 FR 77210). Within the context of the agency's efforts to raise the low rate of safety belt use, the agency proposed a specific torso belt fit requirement that would apply to both manual and automatic belt systems. The

agency explained its proposal as follows:

Improper fit of the torso or shoulder belt has been identified as a major factor determining whether a vehicle occupant will wear a particular safety belt system. The two chief complaints about torso belt fit are that the belt webbing rubs against the occupant's neck or face or that it rubs across the tip of the person's shoulder. Although these conditions may occur in some systems when the occupant leans forward to reach controls or turns toward the rear of the vehicle, most persons ignore momentary discomfort with belt systems. Both of these problems are most noticeable and bothersome when the occupant is sitting in the normal riding position. Many females also complain about rubbing of the torso belt across the breast, generally on the inboard side. To alleviate these torso belt fit problems, the belt installation configuration must be such that the torso belt crosses the occupant's shoulder and chest approximately midway between the neck and shoulder tip, and crosses the sternum approximately midway between the breasts. Although many occupants can adjust the torso belt to fit relatively well for short periods, unless the basic belt geometry is properly determined by the location of the upper and lower belt anchorages, the tendency of belt webbing to seek the shortest distance between the two anchor points can cause the belt to move out of the position most comfortable to the occupant.

In order for any torso belt to fit the range of expected occupant users (5th percentile adult female through 95th percentile adult male), the torso belt must be anchored so that the belt webbing always lies in a narrowly defined envelope across the chest and shoulder. The proposed requirements for torso belt fit specify geometric criteria to describe the required chest-crossing envelope (Figure 1). The chest-crossing envelope that is specified represents transfers of the optimized envelopes of both a 5th percentile and 95th percentile dummy to the 50th percentile dummy. These envelopes were all verified on carefully selected, representative human subjects to ensure that a specific torso belt that falls within the envelope prescribed on the 50th percentile dummy will cross members of the expected user population with a minimum of discomfort.

The proposed requirement for fit of torso belt would allow manufacturers to use any belt design provided the belt webbing falls within the prescribed envelope. With proposed requirements, the requirements discussed in the advance notice relating to anchoring the belts to the seat back, length of belt buckle extension and anchorage geometry would not be necessary. Therefore, those specifications are not included in this proposal.

44 FR 77214.

The comfort zone proposed in the 1979 NPRM appeared as follows:

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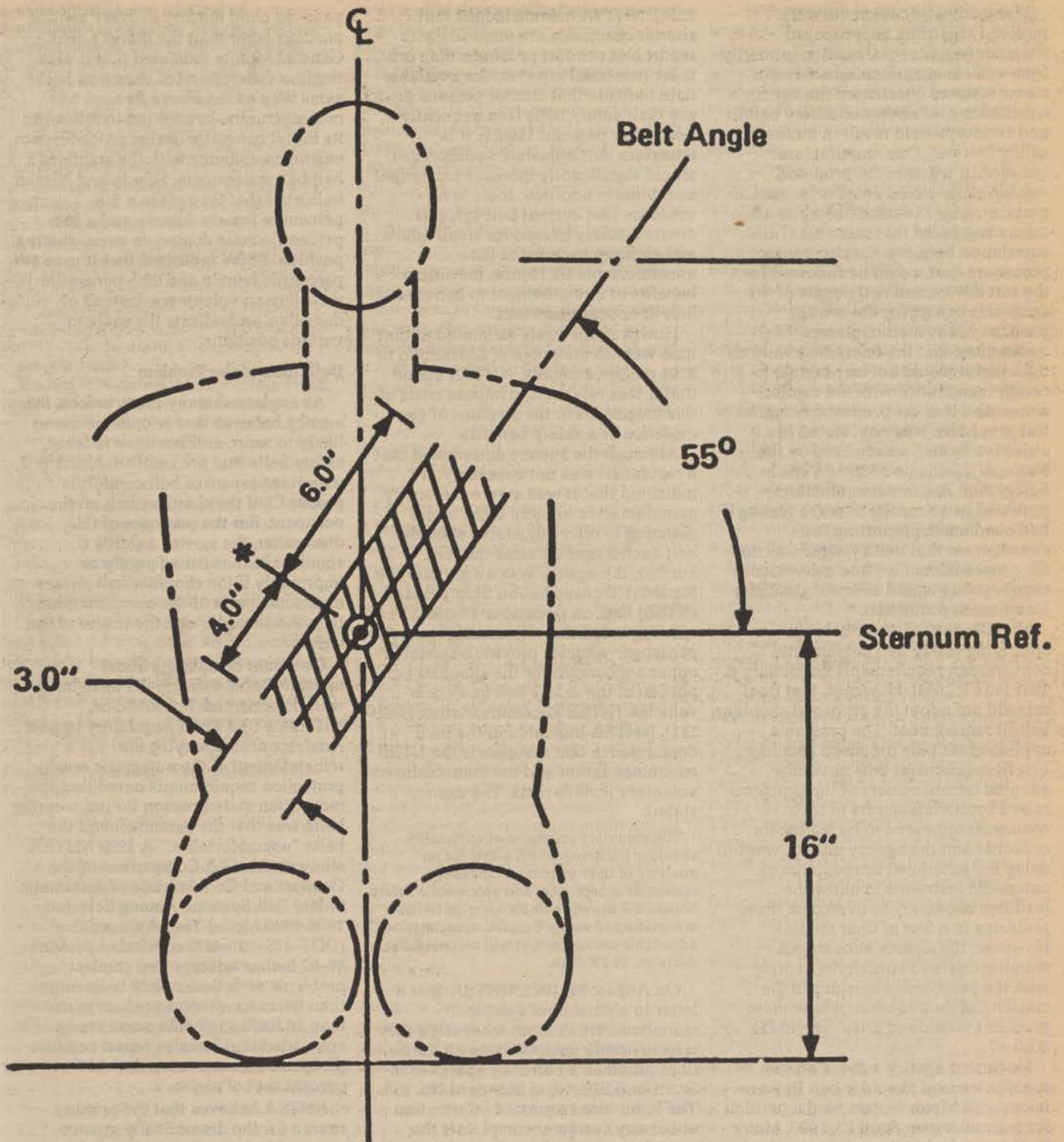


Figure 1 - 1979 Proposed Safety Belt Zone

Many adverse comments were received regarding the proposed shoulder belt fit requirements, primarily from vehicle manufacturers. Several manufacturers questioned the agency's conclusion that enhanced safety belt fit and comfort would result in increased safety belt use. One manufacturer questioned whether the proposed comfort zone would achieve its goal of preventing belt-to-neck contacts, while others suggested that there was little correlation between the positioning procedure that would be followed for the test device and real people of the same size occupying the seating position. Many manufacturers commented that the tolerances were so tight that it would not be possible to certify compliance with the comfort zones, and that the proposed compliance test procedure was not "stated in objective terms," as required by the National Traffic and Motor Vehicle Safety Act. Another manufacturer provided some results of crash testing it had conducted, purporting to demonstrate that belt systems that met the proposed comfort and convenience requirements would offer substantially lesser crash protection.

NHTSA published a final rule specifying safety belt comfort and convenience requirements on January 8, 1981 (46 FR 2064). However, that final rule did not adopt the proposed shoulder belt fit requirement. The preamble explained that the proposed shoulder belt fit requirement was not being adopted because many of the problems raised by manufacturers in their comments appeared to be legitimate concerns and the agency did not want to delay the scheduled introduction of automatic restraints to allow the leadtime necessary to overcome these problems in a few of their models. However, the agency encouraged manufacturers to voluntarily comply with the proposed provisions in the majority of their models, where these problems would not arise. See 46 FR 2066-67.

No further agency actions on the specific issue of shoulder belt fit were taken until Motor Voters filed a petition for rulemaking on April 27, 1990. Motor Voters asked that the safety standards be amended to require adjustable upper anchorages for the shoulder belt portion of lap/shoulder belts. According to its petition, Motor Voters believed that improving the fit and comfort of shoulder belts would increase belt usage among children and smaller adults, thereby enhancing safety.

NHTSA denied this petition in a notice published January 30, 1991 (56 FR

3518). NHTSA acknowledged that shorter occupants are more likely to report belt comfort problems than are taller persons. However, the available data indicate that shorter persons do not use their safety belts less frequently than taller persons. Hence, it is uncertain that adjustable anchorages would significantly increase safety belt use rates. In addition, there is no evidence that current belt systems create a safety hazard for small adults and children because of the uncomfortable fit. Hence, the safety benefits of a requirement to increase belt fit appear uncertain.

However, the costs estimated at that time were in the range of \$56 million to \$104 million annually. NHTSA stated that it was reluctant to impose costs of this magnitude in the absence of clear evidence of a safety benefit.

Although the agency determined that a regulation was not necessary, it indicated that it was aware that many manufacturers already offer, or are planning to offer adjustable shoulder belt anchorages on some models. Further, the agency was aware that the National Transportation Safety Board (NTSB) had, on December 19, 1990, recommended that the manufacturers of passenger vehicles provide adjustable upper anchorages for the shoulder belt portion of the safety belt in all new vehicles. (NTSB Recommendation H-90-111). NHTSA indicated in the final denial notice that it supports the NTSB recommendation and the manufacturers' voluntary installations. The agency stated:

The voluntary provision of adjustable shoulder anchorages will allow for an analysis of their effects on belt usage, consumer acceptance, and automobile safety. Should the agency's analyses remove the uncertainty of safety benefits associated with adjustable anchorages, it will reconsider this decision. 56 FR 3519.

On August 14, 1991, NHTSA sent a letter to a number of vehicle manufacturers to learn what steps they take to certify compliance with the belt fit requirements currently specified in S7.1.1 and S7.1.1.1 of Standard No. 208. The letter also requested information about any customer complaints the manufacturers had received about belt fit in their vehicles and any instructions they give their dealers on how to deal with this issue.

In response to this letter, Ford, Hyundai, Isuzu, Mazda, and Toyota stated that they check the shoulder belt fit by placing a 5th percentile female dummy, a 50th percentile male dummy, and a 95th percentile male dummy in every seating position, as well as a 6-

year-old child dummy in every seating position other than the driver's seat. General Motors indicated that it uses the four different-sized dummies in the same way as the above five manufacturers, in addition to following its initial computer design procedures to ensure compliance with the standard's belt fit requirements. Honda and Nissan indicated that they place a 5th percentile female dummy and a 95th percentile male dummy in every seating position. BMW indicated that it uses 5th percentile female and 95th percentile male human volunteers, instead of dummies, and adjusts the seats to various positions.

Definition of the Problem

As explained many times before, the agency believes that people are more likely to wear, and continue to wear, safety belts that are comfortable. An important aspect of belt comfort is proper fit of the shoulder belt on the occupant. For the purposes of this discussion, the agency regards a shoulder belt as fitting poorly or improperly if the shoulder belt passes over some parts of the occupant other than the shoulder and the center of the chest.

Occupant complaints about uncomfortable safety belts have been well-documented. For instance, NHTSA's 1984 Final Regulatory Impact Analysis accompanying the reinstatement of the automatic crash protection requirements noted that the most often stated reason for not wearing belts was that the persons found the belts "uncomfortable." A 1989 NHTSA study entitled "A Comparison of the Comfort and Convenience of Automatic Safety Belt Systems Among Selected 1988-1989 Model Year Automobiles" (DOT-HS-807-467) concluded persons 58-62 inches tall reported comfort problems with their safety belts more than twice as often as persons more than 70 inches tall. The same study concluded that females report comfort problems at a rate more than 150 percent that of males.

NHTSA believes that the primary reason for the dramatically greater reported belt comfort problems for shorter people and women arise because the safety belts do not fit those persons as well. The agency has received a number of reports that safety belts often contact children and shorter adults on the side of the neck and even on the face. Women are susceptible to discomfort from poorly fitting shoulder belts that contact them on a breast, instead of the center of their chest.

Additionally, the number of complaints the agency has received about shoulder belt fit has increased substantially in recent years. NHTSA received 10 complaints about shoulder belt fit in 1987, 8 complaints in 1988, complaints in 1989, and 137 complaints in 1990. The agency does not know at this time whether this increase in public complaints about shoulder belt fit is due to the increase in safety belt use, the more widespread introduction of automatic belts, the voluntary deletion of "window shade" devices on shoulder belts, some combination of these factors, or some other factors. Whatever the reason, the public is now expressing more concerns about shoulder belt fit than previously.

As NHTSA noted in responding to the Motor Voters' petition, the agency does not have accident data which document its belief that belt fit and comfort affect safety belt use. However, common sense and general experience show that people do not choose to wear things that do not fit properly, whether the improperly fitting object is an article of clothing, shoes, a ring or other item of jewelry, or a safety belt.

Hence, a requirement that safety belts fit properly would make it more likely that some persons, who do not currently use safety belts because of improper fit, would begin using their belts. Increased safety belt use would yield safety benefits. However, the agency cannot precisely quantify these benefits.

Possible Regulatory Responses to this Problem

A. Take No Regulatory Action at This Time

As discussed in the notice denying Motor Voters' petition for rulemaking, the agency estimates that a requirement for adjustable upper anchorages would cost an estimated \$2 per seating position, resulting in total estimated annual costs of \$56 million to \$104 million, depending on the number of seating positions covered. NHTSA is reluctant to impose costs of this magnitude unless there is reason to

believe that the benefits from such a requirement would be reasonably related to such costs.

In addition, the market appears to be moving towards a solution to this problem without any government regulation requiring them to do so. Audi, BMW, General Motors, Honda, Mercedes, Nissan, Saab, Toyota, and Volvo already offer adjustable upper anchorages in some of their models, and Ford plans to introduce this feature soon. All of these manufacturers plan to greatly increase the number of models equipped with adjustable upper anchorages in the future. To the extent that voluntary actions by the manufacturers achieve the desired goal of enhancing belt fit for consumers without any government regulation, the public is assured of the safety benefits from better belt fit at reasonable costs to the consumer and the least burden and effect on productivity for society as a whole.

Further, there are potential adverse safety consequences that might be associated with adjustable upper anchorages and that would have to be weighed against the benefits of using this means of improving belt fit. If safety belts can be manually adjusted to better fit specific occupants in particular seating positions, there exists the possibility that the safety belt would not be manually adjusted again to properly fit a different-sized occupant at that seating position. If that were to happen, the belt would not fit this second occupant properly, with possible adverse safety consequences. Alternatively, an occupant might adjust an adjustable anchorage to a position that would not result in proper belt fit. This could also have adverse safety consequences. While NHTSA is aware of these possibilities, the agency cannot assess how likely they are in the real world.

The agency invites the public to comment on this response to the problem of belt fit. The agency is particularly interested in comments on the following:

1. Is it possible to quantify the benefits that would be associated with improved safety belt fit? Is it reasonable to conclude that improved belt fit would lead to increased safety belt usage rates? Are there any studies or other quantified data available on this subject?

2. The agency estimates that adjustable upper anchorages would cost an additional \$2 for each seating position. Is this estimate accurate? Please provide whatever cost information is available.

3. What make/models presently incorporate adjustable upper anchorages or other devices to improve belt fit? Are there plans to add devices to improve belt fit in additional make/models in the near future? If so, please identify those make/models and the means used to improve belt fit.

4. How likely is it that persons will fail to adjust or improperly adjust adjustable upper anchorages? What, if any, safety consequences would result from the improper adjustment of adjustable anchorages?

5. Is it necessary or appropriate for the agency to require labeling on or near the belt to alert occupants of how to adjust their shoulder belt for proper fit? If so, what information should be included on the label?

B. Adopt Detailed Regulatory Requirements to Ensure Proper Belt Fit

Another approach being considered is for the agency to establish specific performance criteria for belt fit of all lap/shoulder belts and automatic belts. These performance criteria would represent a modification of the comfort zones proposed in 1979, based on the comments to that proposal and other information that has become available since that time.

Under this approach, the agency would use target zones on different sizes of test dummies to determine the fit of the shoulder belt. The target zones on the 50th percentile adult male dummy are shown below in Figure 2:

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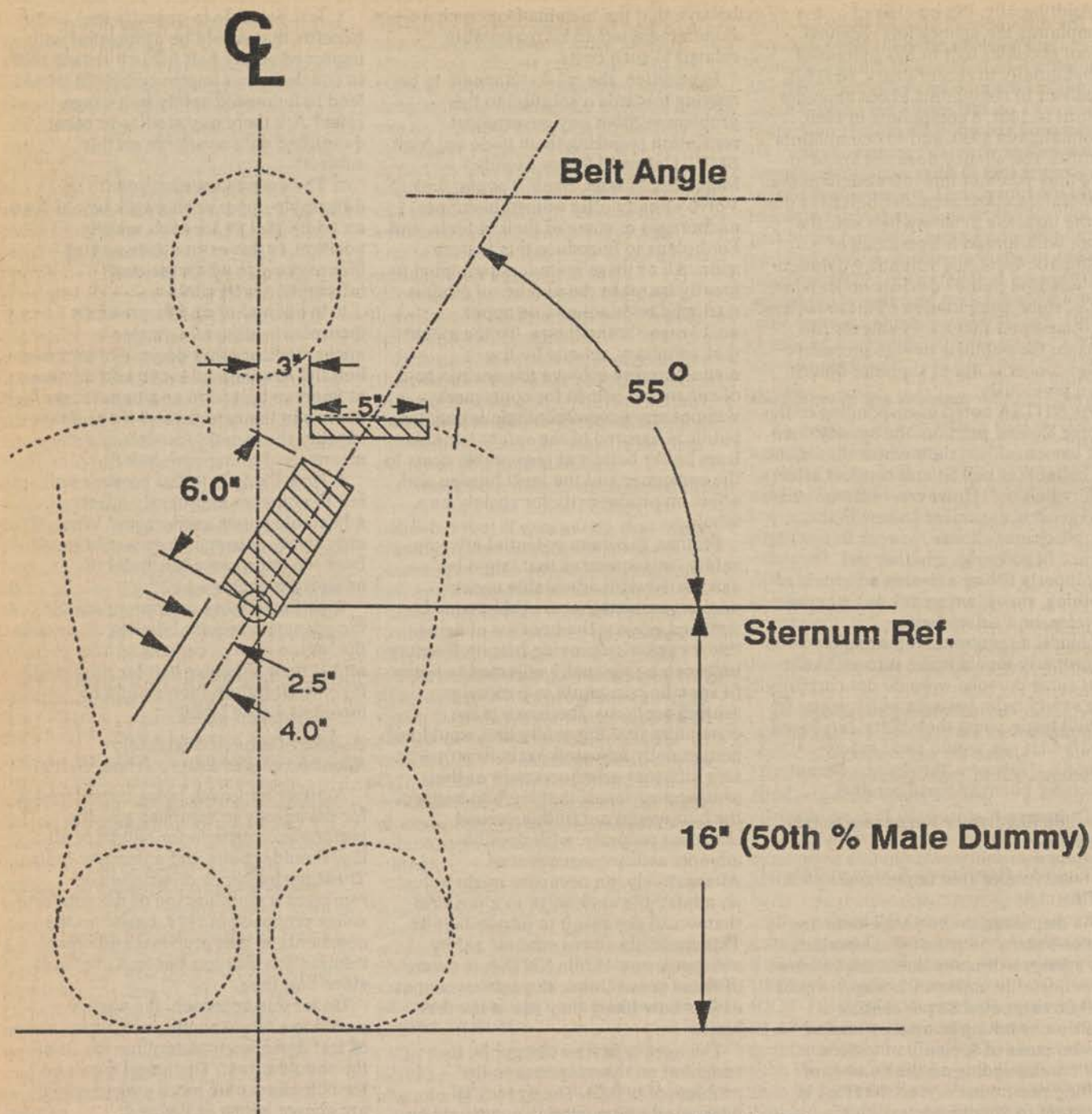


Figure 2 - New Proposed Safety Belt Zones

The differences between the target zones in Figure 2 and the target zone shown above in Figure 1 of this notice represent the agency's response to the comments on the earlier proposal. The torso zone shown in Figure 1 is only three inches wide. In response to the comments that this is an unreasonably tight tolerance, the torso zone in Figure 2 is four inches wide. Additionally, the torso zone in Figure 1 extends four inches below the sternum of the dummy. In response to comments stating that fit is not affected by where the belt passes below the sternum, the torso zone in this new Figure 2 does not extend below the sternum reference point.

Additionally, Figure 2 includes a zone on the shoulder that was not included in Figure 1. This shoulder zone would ensure that the safety belt would not contact the occupant's neck or fall beyond the tip of the shoulder. The shoulder zone would be five inches wide, beginning three inches from the neck centerline of the dummy and ending 8 inches from the neck centerline.

The safety belt would have to pass completely within the target zones shown in Figure 2 for the seating position to comply with the revisions to Standard No. 208. NHTSA believes that a requirement that the belt pass completely within these target zones would minimize the instances of improper belt fit experienced by vehicle occupants.

To ensure that the belt fit a wide range of occupant sizes, the belts at a seating position would have to pass within the specified target zones on four different sizes of dummy. The four different dummies would include a 50th percentile 6-year-old child dummy, a 5th percentile adult female dummy, a 50th percentile adult male dummy, and a 95th percentile adult male dummy. If shoulder belts pass within the target zones on all four of these dummies at a seating position, the number of complaints about belt fit should decrease substantially.

NHTSA acknowledges that Part 572, Anthropomorphic Test Dummies, presently includes specifications only for the 50th percentile 6-year-old child dummy (subpart G) and the 50th percentile adult male dummy (subpart E). However, while there are no detailed specifications for a 5th percentile adult female dummy and a 95th percentile adult male dummy, there are dimensions given for persons of those sizes in S7.1.3 of Standard No. 208. Furthermore, as noted above, eight vehicle manufacturers have told NHTSA that they already use 5th percentile female and 95th percentile male dummies to

evaluate belt fit in their current vehicles. Hence, while there are no regulatory specifications for these two dummy sizes, there does not appear to be any confusion or uncertainty on the part of vehicle manufacturers about the dimensions or other elements of these dummy sizes.

Of course, if the agency decides to proceed to a proposal to require the use of the 5th percentile adult female dummy and the 95th percentile adult male dummy to determine compliance with proposed belt fit requirements in an amended version of Standard No. 208, NHTSA will include dimensions and attributes for these dummy sizes in part 572. However, there is no apparent reason to delay gathering information on using these dummy sizes for Standard No. 208 compliance purposes, since the general characteristics of the dummy sizes are so widely understood and accepted.

In addition, the agency is aware that Figure 2 shows target zones only for the 50th percentile adult male dummy, and not for the other three dummy sizes. However, the location of the target zones and the size of the shoulder zone for the other dummy sizes can be readily calculated. The torso target zone will be four inches wide and will extend up from the sternum reference point at a 55 degree angle, just as is shown in Figure 2 for the 50th percentile adult male dummy. The sternum reference point the shoulder zone location, and the shoulder zone width location for the other three dummy size would be scaled so as to be proportional to their location and width on the 50th percentile adult male dummy. For example, the thorax of the 6-year-old child dummy is about $\frac{2}{3}$ as high as the 18 inch height of the sternum reference point shown in Figure 2 for the 50th percentile adult male dummy, or 10.67 inches. The shoulder target zone for the 6-year-old dummy would be $\frac{2}{3}$ of the distance from the neck centerline shown in Figure 2, or two inches. The width of the shoulder zone on the 6-year-old dummy would be $\frac{2}{3}$ of what is shown in Figure 2, or 3.34 inches. As noted above, the chest zone on all four of the dummy sizes will always be four inches wide.

The performance requirement for belt fit would apply to all types of light vehicles (i.e., vehicles with a gross vehicle weight rating of 10,000 pounds or less) at all outboard seating positions, including the driver's seat, equipped with a shoulder belt, regardless of whether the safety belt is a manual or automatic belt. Compliance with this performance requirement would be determined by using all four dummy sizes at subject seating positions. In

particular, the agency notes that it would use the 6-year-old child dummy at the driver's seat to determine belt fit. NHTSA acknowledges that the manufacturers that currently use the 6-year-old dummy to determine belt fit have indicated that they do not use that dummy at the driver's seat. However, the agency believes that the use of the child dummy at the driver's seat would address the fit and comfort problems reported by drivers shorter than the 5th percentile adult female dummy. Comments are requested on this approach.

To ensure that belt fit is measured with the seats in a realistic position, adjustable seats would be adjusted as follows for the different dummy sizes. Both the 6-year-old dummy and the 5th percentile adult female would have the seat adjusted to its forwardmost position and at the highest vertical adjustment position. The 50th percentile adult male would have the seat adjusted to the position midway between the forwardmost and rearwardmost position and to the midway vertical adjustment position. The 95th percentile adult male dummy would have the seat adjusted to its rearwardmost position and to its lowest vertical adjustment position. For all dummy sizes, the seat backs would be adjusted to the manufacturer's nominal design riding position, as specified in S8.1.3 of Standard No. 208. All dummy sizes would be positioned in the manner currently specified in S11 of Standard No. 208 for the 50th percentile adult male dummy and any belt adjustments would be made in accordance with the procedure currently specified in S11.9.

As part of this option, the agency is also considering the use of alternative test devices to evaluate belt fit. For example, the Canadian Ministry of Transport has been working with measuring safety belt fit using a modified version of the Society of Automotive Engineers (SAE) H-point machine, as specified in SAE J826. This H-point machine is the approximate size and weight of a 50th percentile adult male. NHTSA will investigate the possibility of modifying this machine to permit adjustment of its size and weight. If such modifications are possible, a single test device could be used to simulate a wide range of occupants. The agency will evaluate this and any other potential test devices that are brought to its attention.

NHTSA would like to emphasize that this belt fit requirement would be a performance requirement, not a requirement that vehicles be equipped with adjustable upper anchorages. The

agency is aware of at least three other design features that would allow a shoulder belt to adjust to fit different sizes of occupants. These features include:

a. An inboard moveable anchorage—in this design, the inboard portion of the safety belt system moves with the seat adjustment position to automatically change the fit of the shoulder belt to coincide with the selected seat adjustment position.

b. A "guide loop extender" or a "belt presenter"—this design incorporates a rigid sheath mounted at the upper or lower anchorage that swings the safety belt into a range of positions.

c. Integrated restraint system—in this design, both the lap and shoulder belts are anchored directly to the seat instead of the vehicle body.

Any design that complies with the proposed belt fit requirement could be used. Thus, unlike previous actions which have focused exclusively on adjustable anchorages as the solution to the problem of improper belt fit, this notice sets forth possible performance standards that would allow manufacturers to choose any means to achieve the specified performance.

The agency invites the public to comment on this alternative response to the problem of belt fit. The agency is particularly interested in comments on the following:

6. Are the performance requirements and test procedures set forth in this proposal appropriate and practicable means of improving safety belt fit? Specifically, are the target zones, the dummy sizes, and the subject seating positions appropriate?

7. Is the dummy positioning procedure specified in S11 of Standard No. 208 for the 50th percentile adult male dummy appropriate for the other dummy sizes to be used under this proposal?

8. Do the vehicle make/models that currently offer adjustable upper anchorages or other means of improving belt fit comply with these proposed performance criteria?

C. Adopt a General Requirement That Safety Belts Adjust To Fit Different Sized Occupants

Yet another means of addressing the problem of belt fit would be to adopt a general requirement that belts at subject outboard seating position must adjust to fit different sized occupants, either manually (e.g., adjustable upper anchorages) or automatically (e.g., anchorages that move automatically with the seat or the safety belt position). Under this approach, Standard No. 208 would not be amended to further specify how fit would be determined, nor would

the Standard specify any minimum range of adjustment positions that would have to be provided. Instead, this approach would allow manufacturers to comply with the requirement by providing at least some adjustment capability for a belt system, no matter how small that capability is.

This approach gives manufacturers the greatest flexibility to address the problem of improper belt fit and relies on the manufacturers to use this flexibility to provide appropriate solutions to that problem, without the agency's having to specify detailed requirements and a detailed compliance test. This approach has been used successfully in Standard No. 113, Hood Latch System. That standard specifies that vehicles with hoods must be equipped with a hood latch system. Although Standard No. 113 does not specify any detailed requirements for the hood latch system or provide any detailed compliance test procedures, it appears to have effectively addressed the problem of preventing unintended hood openings. The same general type of approach could prove equally effective at minimizing improper belt fit.

If this approach were effective, it would impose substantially lower costs and other burdens than a more specific requirement on both this agency (in its compliance testing) and on the manufacturers (in making their certification of compliance with the belt fit requirement). Therefore, the agency is considering this approach as a potential means of addressing the issue of improper belt fit.

The agency invites the public to comment on this particular regulatory approach to the problem of belt fit. The agency is particularly interested in comments on the following:

9. How likely is it that this approach would result in substantially improved belt fit? Does this approach provide manufacturers with a significant incentive to improve belt fit in addition to the incentive the manufacturers already have to improve belt fit in response to market demand?

10. Are there any alternative regulatory approaches that would more effectively achieve the agency's goal of enhanced belt fit for occupants? If so, please explain the approach in detail.

Rulemaking Analyses and Notices

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

NHTSA has considered the potential benefits and burdens that would be associated with a final rule adopting any of the options set forth above. Based

on that consideration, the agency has determined that this rulemaking action is neither "major," within the meaning of Executive Order 12291, nor "significant," within the meaning of the Department of Transportation's regulatory policies and procedures. Given the uncertainties about what the requirements might be specified in any final rule, it is very difficult to make any meaningful estimates of the benefits and burdens at this stage of the rulemaking. However, NHTSA has prepared a preliminary regulatory evaluation (PRE) explaining both its current estimates of the benefits and burdens associated with this rulemaking and the uncertainties associated with those estimates. This PRE is available in the docket assigned to this rulemaking action.

That PRE indicates that the benefits of enhanced belt fit might be estimated as follows. The agency's 19-city survey indicates that 1.7 percent of drivers misuse their safety belts either by putting the belt behind their back or under their arm. The agency estimates that if improved safety belt fit enticed all 1.7 percent of front seat occupants that misuse their belts to use their belts correctly, 61 lives could be saved and 1,355 moderate-to-critical injuries could be reduced in severity annually. In addition, although the agency has no data demonstrating that improving safety belt fit would definitely increase safety belt use, a one percentage point increase in safety belt use would result in an estimated savings of 177 fatalities and a reduction in severity of 2,380 moderate-to-critical injuries annually.

As discussed at length above, NHTSA estimates that one potential countermeasure to improper belt fit, manually adjustable upper anchorages, would cost approximately \$2 per seating position. There are approximately 10 million automobiles and 4 million light trucks produced per year. If the requirement for adjustable anchorages were limited to front outboard seats, annual costs would be \$56 million (14 million vehicles X 2 seating positions per vehicle X \$2 per seating position). If the requirement were extended to include all outboard seating positions, annual costs could be as high as \$104 million per year.

However, this upper boundary of potential costs should be adjusted downward to reflect the vehicle manufacturers' voluntary installations of adjustable anchorages in a number of their vehicles. NHTSA does not have precise information on the number of vehicles voluntarily equipped with adjustable anchorages, but this notice

asks for information on this subject. However, the agency estimates that roughly 2.2 million 1992 vehicles were voluntarily equipped with adjustable upper anchorages for both front outboard seating positions. Accordingly, the upper boundary of potential costs would be roughly 8.8 million dollars less (2.2 million vehicles X 2 seating positions per vehicle X \$2 per seating position) than the previously estimated \$104 million, or about \$95.6 million.

With the exception of adjustable upper anchorages, NHTSA has not estimated the costs of the other potential countermeasures available to improve safety belt fit. Comments and data on estimated costs of each of the potential countermeasures are requested.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this advance notice of proposed rulemaking under the Regulatory Flexibility Act. I hereby certify that this advance notice will not have a significant economic impact on a substantial number of small businesses. Few, if any, of the vehicle manufacturers qualify as small businesses. To the extent that any affected parties would qualify as small businesses, the economic impacts associated with this rule would not be significant, as explained above. The cost impact per vehicle would not be more than \$8, which is not significant compared to the cost of a new vehicle. Small organizations and small governmental units would not be significantly affected by any rule as purchasers of new vehicles, because the rule will not affect the purchase price of those vehicles.

National Environmental Policy Act

NHTSA has also analyzed this advance notice for the purposes of the National Environmental Policy Act, and determined that it would not have a significant impact on the quality of the human environment.

Executive Order 12612 (Federalism)

This advance notice of proposed rulemaking has also been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and NHTSA has determined that this advance notice does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Interested persons are invited to submit comments on the different approaches suggested in this advance notice, as well as any alternative approaches commenters believe should be considered to address the problem of

belt fit. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing date indicated above for this advance notice will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in this rulemaking proceeding will be considered as suggestions for further rulemaking action. Comments on this advance notice will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Authority: Secs. 2502 and 2503, Public Law 102-240, 105 Stat. 2081-2083; 15 U.S.C. 1392, 1401, 1403, 1407; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on: May 26, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-12557 Filed 5-28-92; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 672 and 675

[Docket No. 920531-2131]

RIN 0648-AD76

Groundfish of the Gulf of Alaska; Groundfish of the Bering Sea and Aleutian Islands

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS publishes a proposed rule that would implement Amendment 19 to the Fishery Management Plan (FMP) for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (BSAI) and Amendment 24 to the FMP for Groundfish of the Gulf of Alaska (GOA), if the amendments are approved by the Secretary of Commerce (Secretary) after review and consideration of public comments. Amendments 19 and 24 to the respective FMPs were prepared by the North Pacific Fishery Management Council (Council) and have been submitted to the Secretary for review under provisions of the Magnuson Fishery Conservation and Management Act (Magnuson Act). These regulations are proposed to establish 1992 halibut bycatch limits for trawl and non-trawl gear in the BSAI and authorize amendments to regulations that would provide for inseason time/area closures to further reduce prohibited species bycatch rates. In addition, certain amendments to existing regulations are proposed that would revise measures applicable to the management and monitoring of prohibited species bycatch amounts and the vessel incentive program to reduce prohibited species bycatch rates. These actions are intended by the Council to promote management and conservation of groundfish and other fish resources and to further the goals and objectives contained in the FMPs that govern these fisheries.

DATES: Comments are invited on or before July 13, 1992.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802. Individual copies of Amendments 19 and 24 and the environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/

RIR/IRFA) may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510 (telephone 907-271-2809).

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, Fisheries Management Division, at 907-586-7228.

SUPPLEMENTARY INFORMATION:

The domestic and foreign groundfish fisheries in the exclusive economic zone (EEZ) off Alaska are managed by the Secretary in accordance with the BSAI and GOA FMPs. Both FMPs were prepared by the Council under the Magnuson Act. The GOA FMP is implemented by regulations appearing at 50 CFR 611.92 for the foreign fishery and at 50 CFR part 672 for the U.S. fishery. The BSAI FMP is implemented by regulations appearing at 50 CFR 611.93 for the foreign fishery and 50 CFR part 675 for the U.S. fishery. General regulations that also pertain to U.S. fisheries appear at 50 CFR part 620.

At times, amendments to the FMPs and their implementing regulations are necessary to respond to fishery conservation and management problems. The Council convened a teleconference meeting on July 3, 1991, to review proposals received for changes to existing prohibited species bycatch management measures. During the meeting, the Council selected for further consideration measures that would amend the groundfish FMPs and existing regulations that implement those FMPs. Council and NMFS staff prepared a draft EA/RIR/IRFA to discuss and analyze the need for the proposals relating to bycatch management under guidance of the National Environmental Policy Act (NEPA) of 1969, E.O. 12291, and NOAA policy. The Council reviewed these documents at its September 22-29, 1991, meeting and decided to send the analyses to the interested public for review. At its December 3-9, 1991, meeting, the Council considered the testimony and recommendations of its Advisory Panel (AP), Scientific and Statistical Committee (SSC), Plan Teams, fishing industry representatives, and the general public on each bycatch management proposal and the EA/RIR/IRFA analysis. The following measures were approved for inclusion in Amendments 19/24 for review under section 304(b) of the Magnuson Act:

(1) For 1992, reduce the Pacific halibut prohibited species catch (PSC) limit established for BSAI trawl gear from 5,333 metric tons (mt) to 5,033 mt, but retain the primary halibut PSC limit at 4,400 mt;

(2) For 1992, establish a 750-mt Pacific halibut bycatch mortality limit for BSAI fixed gear; and

(3) Establish FMP authority to develop and implement regulatory amendments that provide for time/area closures to reduce prohibited species bycatch rates.

In addition to the above FMP amendments, the following amendments to current regulations are proposed:

(1) Revise BSAI fishery definitions for purposes of monitoring fishery specific bycatch allowances and assigning vessels to fisheries for purposes of the vessel incentive program;

(2) Revise the management of BSAI trawl fishery categories that are eligible to receive prohibited species bycatch allowances;

(3) Expand the vessel incentive program to address halibut bycatch rates in all trawl fisheries;

(4) Delay the season opening date of the BSAI and GOA groundfish trawl fisheries to January 20 of each fishing year to reduce salmon and halibut bycatch rates;

(5) Further delay the season opening date of the GOA trawl rockfish fishery to the Monday closest to July 1 to reduce halibut and chinook salmon bycatch rates; and

(6) Change directed fishing standards to further limit halibut bycatch associated with bottom trawl fisheries.

The Council further recommended that the 5,033 mt halibut PSC limit for trawl gear and several of the regulatory measures listed above be implemented under emergency interim rulemaking during the period the Secretary is reviewing Amendments 19/24 and associated amendments to the implementing regulations as proposed in this rule. The emergency rule was implemented on March 30, 1992 (57 FR 11433, April 3, 1992).

A description of, and the reasons for, each of the bycatch management measures adopted by the Council follow:

Halibut PSC Limit for BSAI Trawl Gear

A 1-year reduction of the BSAI halibut PSC limit established for trawl gear is proposed that would establish a 5,033 mt PSC limit for 1992. This level is a 300 mt reduction from the 5,333 mt halibut PSC limit currently specified in the FMP. The primary halibut PSC limit would remain unchanged at 4,400 mt. A 1-year reduction of the trawl halibut bycatch limit is proposed to monitor the effects of a reduced trawl limit on the ability of trawl operations to harvest available groundfish. Without further Council action, the halibut PSC limit proposed for trawl gear would revert back to 5,333 mt on January 1, 1993. The Council is considering alternatives for a

subsequent FMP amendment that would further revise the halibut PSC limit for trawl gear in 1993 and beyond. Council action on this issue is scheduled for its June 1992 meeting.

The proposed 1992 reduction of the halibut PSC limit for trawl gear would implement the Council's intent to reduce trawl bycatch of Pacific halibut, and is supported by a July 1991 recommendation to the Council by the International Pacific Halibut Commission (IPHC) that the Council take action to reduce halibut bycatch in the Alaska groundfish fisheries. The Council's action to reduce halibut bycatch mortality in the Alaska groundfish fisheries is intended to respond to the conflicts between U.S. and Canadian halibut fishermen and U.S. groundfish fishermen that take halibut as bycatch.

Halibut PSC Limit for Non-Trawl Gear in the BSAI

A 750-mt Pacific halibut mortality limit is proposed for the 1992 BSAI non-trawl gear fisheries. All non-trawl gear fisheries would be held accountable for their halibut bycatch mortality since the beginning of the 1992 fishing year on January 1, 1992. When the 750-mt halibut mortality limit is reached, further directed fishing for BSAI groundfish by vessels using non-trawl gear would be prohibited.

The Director, Alaska Region, NMFS (Regional Director), would use observed halibut bycatch rates and reported groundfish catch to project when the 750-mt mortality limit is reached. Based on information contained in the final 1992 Stock Assessment and Fishery Evaluation (SAFE) report, dated November 1991, the assumed mortality rates of Pacific halibut that are caught as bycatch in the hook-and-line and pot gear fisheries are 16 percent and 10 percent, respectively.

When taking action to adopt this measure, the Council did not elect to establish separate PSC limits for hook-and-line and pot gear and did not recommend that pot gear be exempted from halibut bycatch restrictions. Pending Secretarial approval and implementation of this measure, directed fishing for BSAI groundfish by any vessel using non-trawl gear would be prohibited for the remainder of 1992 once the 750-mt mortality limit is reached.

The 750-mt halibut mortality limit for non-trawl gear is proposed only for 1992 to assess the effect of this limit on the ability of the non-trawl fisheries to harvest available groundfish. Without further Council action, no halibut

bycatch mortality limit for the non-trawl fisheries will be in effect on January 1, 1993. The Council is considering alternatives for a subsequent FMP amendment that would establish a halibut bycatch mortality limit for non-trawl gear in 1993 and beyond. Council action on this issue is scheduled for its June 1992 meeting.

The 750-mt halibut mortality limit for non-trawl gear is intended to limit the amount of halibut mortality in the BSAI non-trawl fisheries without unduly constraining the increasing effort for Pacific cod with hook-and-line and pot gear. Although the total halibut bycatch mortality estimated for these gear types in 1991 was only 464 mt and 4 mt, respectively, additional amounts of bycatch will be taken in 1992 due to increased amounts of Pacific cod taken with non-trawl gear. This increase is attributed to continued displacement of fishing effort for Pacific cod from the trawl fishery to the hook-and-line and pot gear fisheries due to trawl closures caused by halibut bycatch restrictions.

Establish FMP Authority To Implement Time/Area Closures To Reduce Prohibited Species Bycatch Rates

Two measures are proposed that would authorize inseason action to close specified fisheries or areas to reduce prohibited species bycatch rates. The first measure would amend the GOA FMP to allow the Regional Director to close areas temporarily to directed groundfish fishing to avoid high bycatch rates of prohibited species specified under § 672.20(e). This authority already exists in the BSAI FMP and implementing regulations § 675.29 (e)(1)(iv), (e)(3), (e)(6), and (f). Similar regulations are proposed at § 672.22 to incorporate this authority in the GOA. The record supporting the intent of this authority is contained in the preamble to the proposed rule implementing Amendment 16a to the BSAI FMP (56 FR 15063, April 15, 1991). The discretionary closure action under these regulations requires that an impact analysis be developed and that the public be provided with an opportunity to comment on the closure and accompanying analysis. These requirements could result in some closures not being implemented in a timely manner to address short-term, high bycatch rates that are identified based on inseason data.

In response to concerns that some time/area closures to reduce prohibited species bycatch rates may not be timely enough to be effective, a second measure was adopted by the Council that would amend the BSAI and GOA FMPs to authorize amendments to

regulations that would provide non-discretionary authority to the Regional Director to close fisheries temporarily to reduce prohibited species bycatch rates. Under this authority, regulatory amendments could be developed by the Council that identify specific criteria, that, when met, would immediately cause specified fishery closures in a timely enough manner to reduce prohibited species bycatch rates effectively. Should Amendments 19/24 to the FMPs be approved by the Secretary, they will be incorporated in both FMPs; however, no regulations implementing non-discretionary closure authority are proposed at this time. The BSAI and GOA FMP text proposed by the Council in Amendments 19/24 that would authorize future regulatory amendments to regulations is as follows:

The Secretary, after consultation with the Council, may identify and establish by regulatory amendment time/area closures to reduce bycatch rates of prohibited species. Closures of all or part of an area would require a determination by the Secretary that the closure is based on the best available scientific information concerning the seasonal distribution and abundance of prohibited species and bycatch rates of prohibited species associated with various directed groundfish fisheries or gear types. A time/area closure will be limited to the minimum size and duration that the Secretary determines reasonably necessary to accomplish the intent of the closure. Any time/area closure would be based upon a determination that it is necessary to prevent:

1. A continuation of relatively high bycatch rates of prohibited species within an area;
2. The take of an excessive share of PSC limits or bycatch allowances by vessels fishing within an area;
3. The closure of one or more directed fisheries for groundfish due to excessive prohibited species bycatch rates that occur in a specified fishery operating within an area or part of an area; or
4. The premature attainment of specified PSC limits or bycatch allowances and associated foregone opportunity for vessels to harvest available groundfish.

BSAI Fishery Definitions

A single set of fishery definitions are proposed of (1) monitoring BSAI fishery bycatch allowances of prohibited species, and (2) assigning vessels to fisheries under the vessel incentive program. At the end of each weekly reporting period, each processor's reported trawl catch or receipt of groundfish would be assigned to one of six fishery categories using the following definitions:

- (1) Midwater pollock fishery. Fishing with trawl gear that results in a catch of pollock during any weekly reporting period that is 95 percent or more of the

total amount of groundfish caught during the week.

- (2) Yellowfin sole, or rock sole/"other flatfish" fishery. A BSAI flatfish fishery is first defined as fishing with trawl gear during any weekly reporting period that results in an aggregate retained amount of yellowfin sole, rock sole, and "other flatfish" that is greater than the retained amount of any other groundfish species or species group, in round weight equivalents. The BSAI flatfish fishery is then subdivided into either (a) the yellowfin sole fishery if this species comprises 70 percent or more of the retained flatfish catch, or (b) the rock sole/"other flatfish" fishery category.

- (3) Greenland turbot/arrowtooth flounder/sablefish fishery. Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of Greenland turbot, arrowtooth flounder, and sablefish that is greater than the retained amount of any other groundfish fishery category.

- (4) Rockfish fishery. Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of rockfish species of the genera *Sebastes* and *Sebastolobus* that is greater than the retained amount of any other groundfish fishery category.

- (5) Pacific cod fishery. Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of Pacific cod that is greater than the retained amount of any other groundfish fishery category.

- (6) Pollock/Atka mackerel/"other species" fishery. Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of pollock other than pollock harvested in the midwater pollock fishery, Atka mackerel, and "other species" that is greater than the retained amount of any other groundfish fishery category.

The above definitions were adopted by the Council in response to concerns raised over conflicting fishery definitions specified in current regulations and the necessity to implement revised fishery definitions that more accurately reflect target operations. Existing regulations establish separate target fishery definitions for purposes of monitoring fishery bycatch allowances of prohibited species (§ 675.21(b)(4)) and for the vessel incentive program (§ 675.26(b)). Furthermore, the existing incentive program definitions are based on observed total catch composition, whereas the existing definitions used to monitor prohibited species bycatch allowances are based on retained catch composition.

Experience with these definitions indicates they are inappropriate because a vessel may be assigned to a fishery category other than its intended target operation. Of special concern are the vessel incentive program definitions, which are based on total catch composition. Public testimony before the Council has substantiated management concerns that vessel operators are able to manipulate catch and discard amounts in a manner that prevents the vessel from being assigned to a fishery included under the incentive program. Another concern is that the current target fishery definitions are based on specified default lists of catch composition percentages that may not provide an effective index of a vessel operator's intended target operation. Finally, industry and management confusion has resulted from the regulatory inconsistency that exists under the two separate criteria used to define fisheries for purposes of monitoring fishery bycatch allowances and the incentive program.

The proposed revisions to fishery definitions would resolve the above concerns and would establish clear and effective criteria for assigning vessels to target fisheries. The revised definitions would enhance NMFS' ability to enforce vessel incentive program and monitor prohibited species bycatch allowances in a manner that avoids inappropriate fishery closures and associated foregone revenue to affected groundfish fishermen.

For purposes of the vessel incentive program, assignments of vessels to fishery categories based on the round weight equivalent of retained groundfish species would require that standard product recovery rates (PRRs) be established. NMFS intends to publish proposed PRRs for public comment and review and, pending Secretarial review, delay the implementation of the revised fishery definitions for purposes of the incentive program until a final rule implementing standard PRRs is effective.

BSAI Prohibited Species Bycatch Allowances

Six BSAI trawl fishery categories are proposed to receive separate allocations of PSC limits at § 675.21(b)(4). They are: (1) Greenland turbot, arrowtooth flounder, and sablefish; (2) rock sole and "other flatfish"; (3) yellowfin sole; (4) rockfish; (5) Pacific cod; and (6) pollock, Atka mackerel, and "other species." A separate herring bycatch allowance would continue to be allocated to the midwater pollock fishery. In support of this proposed measure, the 1992 allocations of PSC limits to BSAI fishery

categories as prohibited species bycatch allowances would also be revised from those published in the Federal Register notice of final 1992 fishery specifications (57 FR 3952, February 3, 1992). The proposed specifications are listed in Tables 1 and 2 of this preamble and are consistent with those specified under the emergency rule (57 FR 11433, April 3, 1992). The preamble to the emergency rule sets forth the record in support of the fishery bycatch specifications proposed for 1992.

This proposed action is necessary to (1) maintain 1992 trawl bycatch amounts of halibut within the 5,033 mt halibut PSC limit proposed for 1992; (2) specify prohibited species bycatch allowances for the BSAI rockfish fishery and authorize the closure of directed fishing for BSAI rockfish to prevent PSC limits from being exceeded; and (3) specify separate prohibited species bycatch allowances for the yellowfin sole and Pacific cod fisheries to prevent premature closures of these fisheries and associated foregone harvests and revenue due to prohibited species bycatch amounts in other fisheries.

Separate prohibited species bycatch allowances are proposed for the rockfish fishery that, when reached, would authorize a closure of the BSAI to directed fishing for rockfish. Under current regulations, prohibited species bycatch in the rockfish fishery is credited against prohibited species bycatch allowances specified for the "other fishery" category. The "other fishery" category is comprised of the pollock, Pacific cod, rockfish, sablefish, Atka mackerel, and "other species" fisheries. When a crab or halibut bycatch allowance specified for the "other fishery" category is reached, only directed fishing for Pacific cod with trawl gear and for pollock with non-pelagic trawl gear is prohibited (§ 675.21(c)(2)). The rockfish fishery is allowed to continue and additional amounts of halibut bycatch taken in this fishery contribute towards annual overages of the halibut PSC limit. Separate bycatch allowances for the rockfish fishery would prevent this fishery from contributing to premature closures of the Pacific cod and pollock fisheries and would hold the rockfish fishery more accountable for its prohibited species bycatch. Separate allowances would also provide the Regional Director with the management authority necessary to close the rockfish fishery to maintain bycatch amounts within established PSC limits, while protecting the rockfish fishery from premature closures due to bycatch in other fisheries.

Separate bycatch allowances are also proposed for the Pacific cod trawl fishery to prevent premature closures of this fishery and associated foregone harvests and revenue due to prohibited species bycatch amounts in other fisheries. Unanticipated high bycatch rates in any of the component fisheries can lead to closure of the high-valued Pacific cod fishery and foregone harvest opportunities. This situation occurred most recently in early 1992 when unexpectedly high bycatch rates of prohibited species were experienced in the pollock roe fishery. Associated bycatch amounts of halibut and *C. bairdi* Tanner crab led to closures of the Pacific cod fishery at a time of year when Pacific cod catch per unit of effort was high and associated bycatch rates of prohibited species were relatively low. The specification of separate bycatch allowances for the Pacific cod trawl fishery would protect this fishery from closures due to halibut bycatch in other fisheries while preventing bycatch amounts in the Pacific cod fishery from contributing to closures of other trawl fisheries.

Revisions to the rock sole and flatfish fishery categories, defined at § 675.21(b)(4), are also proposed to provide for separate prohibited species bycatch allowances for the yellowfin sole fishery. This action is proposed because halibut and crab bycatch rates in the yellowfin sole fishery are significantly lower than either the rock sole or "other flatfish" fisheries. Existing regulations authorize separate bycatch allowances for the rock sole and the yellowfin sole/"other flatfish" fisheries. When these regulations were adopted by the Council under Amendment 16 to the BSAI FMP (56 FR 2700, January 24, 1991), U.S. fishermen did not generally fish for rock sole outside of the first quarter roe season and "other flatfish" were taken primarily as bycatch in the yellowfin sole fishery. As such, separate bycatch allowances for the rock sole and yellowfin sole/"other flatfish" fisheries are supportable.

Since 1990, some U.S. fishermen have initiated limited target operations for rock sole and "other flatfish" outside of the rock sole roe season. These operations typically experience prohibited species bycatch rates that are relatively higher than those experienced in the yellowfin sole fishery. Halibut bycatch rates in the 1991 "other flatfish" fishery resulted in a premature closure of the yellowfin sole fishery. Furthermore, observer information from the 1991 fishery indicates groundfish catch composition and prohibited species bycatch rates in the "other

flatfish" fishery are more similar to the rock sole fishery than the yellowfin sole fishery. The rock sole and "other flatfish" fisheries would be more appropriately monitored under the same prohibited species bycatch allowance in a manner that would prevent routine preemption of the yellowfin sole fishery by relatively high bycatch rates in the "other flatfish" fishery. This action will also provide for more equitable bycatch accountability in those flatfish fisheries that are prosecuted on a similar multi-species complex with similar bycatch rates.

Last, the Council has proposed to combine the sablefish fishery with the Greenland turbot and arrowtooth flounder fisheries for purposes of allocating prohibited species bycatch allowances that, when reached, would cause a closure of the directed fishery for these species. The sablefish fishery is currently included as a component fishery of the "other fishery" category. While prohibited species bycatch amounts in this fishery contribute towards the closure of the Pacific cod trawl fishery and the pollock fishery with non-pelagic trawl gear, the sablefish fishery is exempt from prohibited species bycatch restrictions. In keeping with its intent for fuller accountability of fishery bycatch amounts, the Council has proposed to combine the sablefish trawl fishery with the Greenland turbot/arrowtooth flounder fishery category because these fisheries are pursued by much the same fleet, in similar depth strata, with similar bycatch rates and often in combined target operations. As stipulated in the February 3, 1992, Federal Register notice of initial fishery specifications (57 FR 3952), directed fishing for Greenland turbot and arrowtooth flounder and for sablefish with trawl gear is prohibited during 1992. Therefore, zero amounts of prohibited species bycatch amounts are allocated to the Greenland turbot/arrowtooth flounder/sablefish fishery category in 1992.

Expand the Vessel Incentive Program to Address Halibut Bycatch in All Trawl Fisheries

A vessel incentive program to reduce prohibited species bycatch rates in the BSAI and GOA Pacific cod, GSAI flatfish, and GOA rockfish trawl fisheries was implemented in 1991 under an interim final rule (56 FR 21619, May 10, 1991). Two letters of comments were received in support of the program. NMFS, through the implementing regulations for Amendments 19/24, would make final the provisions of the interim final rule. An expansion of the vessel incentive program is also

proposed to address Pacific halibut bycatch in all BSAI and GOA trawl fisheries. The expanded BSAI incentive program would authorize separate halibut bycatch rate standards for each of the trawl fishery categories that are eligible to receive separate allocations of crab and halibut PSC limits at § 675.21(b)(4). In addition, a separate halibut bycatch rate standard would be specified for the pollock fishery that would become effective when the directed fishery for pollock by trawl vessels using non-pelagic trawl gear is closed. The existing incentive program for red king crab would continue to be applied for the BSAI flatfish fisheries, except that separate bycatch rate standards would be specified for the yellowfin sole and rock sole/"other flatfish" fisheries. The proposed expansion of the GOA incentive program would specify separate halibut bycatch rate standards for (1) all trawl fisheries; and (2) the pollock fishery when directed fishing for pollock by trawl vessels using non-pelagic trawl gear is closed. At its December 1991 meeting, the Council recommended bycatch rate standards for the first half of 1992 for each of the trawl fishery categories that are proposed to receive separate halibut and crab bycatch allowances. These recommendations were for the first half of 1992, and are not applicable for the second half of 1992 when the proposed rule to expand the incentive program would be in place. At its June 1992 meeting, the Council is scheduled to consider bycatch rate standards for the second half of 1992 for the BSAI and GOA trawl fisheries included under the proposed expansion of the incentive program. Pending Secretarial approval of the expanded program, bycatch rate standards for the second half of 1992 would be published in the Federal Register under existing regulations at §§ 672.26(c) and 675.26(c).

The Council's recommendation for separate bycatch rate standards for the BSAI trawl fishery categories is intended to maintain the integrity of the incentive program by (1) specifying bycatch rate standards that reflect fishery specific bycatch rates; and (2) reducing the number of violations under the vessel incentive program that may result from inappropriate bycatch standards. These results should reduce private and Federal costs associated with needless litigation that otherwise would overwhelm and frustrate NMFS' ability to monitor and enforce effectively the incentive program.

NMFS has several concerns with the proposed expansion of the vessel incentive program and specifically

requests public review and comments on these concerns. First, NMFS is concerned that the proposed expansion of the BSAI incentive program to include numerous trawl fishery categories with separate bycatch rate standards may limit the number of observed hauls per fishery per month for individual vessels to the extent that insufficient numbers of observations may exist to support the statistical method used by NMFS to calculate confidence intervals around a vessel's estimated bycatch rate in a fishery during a month. Combining fishery categories that experience similar bycatch rates and specifying a single bycatch rate standard for the combined fisheries would address this concern. This approach was taken by the Council with respect to the proposed expansion of the GOA incentive program where a single halibut bycatch rate standard of 5 percent is recommended by the Council for all trawl fisheries, except that a 0.1 percent halibut bycatch rate standard is recommended for the pollock fishery when directed fishing for pollock with non-pelagic trawl gear is prohibited.

NMFS is also concerned that the proposed expansion of the incentive program may not be accompanied by additional funding for commensurate increase in Enforcement and General Counsel staff. Without such increases, adequate staff will not be available to carry out the time-consuming task of preparing and reviewing incentive program violations for prosecution. At present, NMFS enforcement dedicates one agent-month per violation to conduct the investigative work necessary to prepare an incentive program violation for possible prosecution. The casework on each violation is further reviewed by the NOAA Office of General Counsel, Alaska Region, before a determination is made whether to issue a notice of violation and assessment (NOVA) and proceed with prosecution. No NOVAs have yet been issued to violators of the 1991 incentive program to reduce halibut bycatch rates in the BSAI flatfish fishery and the premises of the program have yet to be judicially tested. Aside from the questionable proposal to expand the incentive program before NMFS is assured that the current program can withstand judicial challenge, NMFS would require significant increases in NMFS Enforcement and General Counsel staff that could be dedicated to enforcement and prosecution of the incentive program in a manner envisioned by the Council. Lacking an increase in staff or an adjustment of BSAI halibut bycatch rate standards to

reduce the potential number of violations, NMFS would proceed to identify and prosecute violators of the expanded program to the extent possible.

Delay the BSAI and GOA Trawl Season to January 20

A season delay of the BSAI and GOA trawl fisheries is proposed that would prohibit fishing for groundfish with trawl gear until January 20 of each year. This measure would not change the current season starting date of May 1 for the BSAI trawl fisheries for yellowfin sole, "other flatfish," Greenland turbot, and arrowtooth flounder.

The intent of the BSAI trawl season delay is to avoid the high bycatch rates of chinook salmon and halibut that were experienced by the 1990 and 1991 trawl fisheries during the first 3 weeks of January. A concurrent delay of the GOA trawl fisheries is also proposed to avoid a temporary influx of trawl effort into the GOA fisheries during the period when the BSAI trawl fisheries are closed.

Based on the analysis presented in the EA/RIR/IRRA prepared for this proposed measure, a delay of the 1991 BSAI trawl season to January 20 would have resulted in an almost 40-percent reduction of the chinook salmon bycatch experienced by the 1991 trawl fisheries. However, a delay of the 1990 BSAI trawl fishery and either the 1991 or 1990 GOA trawl fisheries would have had no significant effect on prohibited species bycatch amounts, indicating that the bycatch effects of the proposed season delay would vary from year to year. The analysis prepared for this measure also highlighted that a delay of the BSAI trawl fisheries would benefit fishermen that target on roe-bearing pollock by delaying the fishery until roe quality and value is optimum.

Delay of the GOA Rockfish Trawl Fishery and Associated Revisions to Directed Fishing Standards

Directed fishing for GOA rockfish with trawl gear is proposed to be delayed until the beginning of the third quarterly reporting period of each fishing year. To avoid covert targeting on rockfish during the period the fishery is closed, revisions to regulations at § 672.20(g) are proposed that would reduce the directed fishing standards for GOA rockfish species of the genera *Sebastes* and *Sebastolobus* to 15 percent of the aggregate amounts of deep-water flatfish, flathead sole, and sable fish, plus 5 percent of the aggregate amount of all other fish

species retained at the same time by a vessel during the same fishing trip.

This proposed action is intended to (1) reduce high bycatch rates of chinook salmon and halibut in the GOA trawl fisheries during the first half of the fishing year; (2) avoid significant conflicts between groundfish fishermen and salmon fishermen that ensure from the potentially adverse effects of salmon bycatch in the groundfish trawl fisheries on the commercial and recreational salmon fisheries; and (3) reduce the magnitude of foregone revenues that result from the premature attainment of the GOA halibut PSC mortality limit specified for trawl gear and the ensuing closure of the GOA trawl fisheries.

The analyses presented to the Council at its December 1991 meeting showed that the 1991 GOA rockfish trawl fishery accounted for 63 percent of the GOA chinook salmon bycatch, or about 22,700 fish. Of this amount, about 21,800 fish were taken prior to July 1. Observed bycatch rates of halibut in the 1991 trawl rockfish fishery also were significantly lower after July 1 relative to the previous 6 months. After July 1, weekly halibut bycatch rates ranged from 4.70 to 13.15 kg halibut/mt groundfish. Prior to this date, halibut bycatch rates ranged from 38.20 to 108.05 kg halibut/mt groundfish. Based on 1991 data, a delay of the GOA rockfish trawl fishery from January 1 to July 1 could result in a 99.8-percent reduction in chinook salmon bycatch and a 68-percent reduction in the halibut bycatch mortality attributed to this fishery. Similar reductions are projected using 1990 data.

Although the Council is developing salmon bycatch measures, no bycatch restrictions currently exist for chinook salmon. Until such measures are implemented, salmon bycatch in the groundfish fisheries will continue to be a contentious issue that will be further aggravated if high bycatch amounts continue in the GOA rockfish fishery. While studies have not been conducted to indicate any ecological effect of the GOA trawl rockfish fishery's interception of salmon on various salmon stocks and ensuing commercial harvests, representatives for the salmon industry have expressed conservation concerns.

High halibut bycatch rates in the 1991 GOA trawl rockfish fishery also contributed to the premature attainment of the GOA halibut PSC limit established for trawl gear that caused a closure of the GOA to directed fishing for groundfish. The estimated exvessel value of the associated foregone revenues experienced by the GOA trawl

fleet as a result of the 1991 closure approached \$7 million. If high halibut bycatch rates continue in the trawl rockfish fishery, this fishery will continue to contribute a disproportionately large share of the total annual halibut mortality limit and the ensuring forgone revenues.

An effective delay of the GOA rockfish season to limit chinook salmon and halibut bycatch amounts would require a reduction of the directed fishing standards for rockfish to prevent covert targeting on rockfish during the period the fishery is closed. The existing directed fishing standards for GOA rockfish allow for bycatch amounts of up to 20 percent rockfish species relative to all other fish or fish products retained on board a vessel during a fishing trip. Actual bycatch rates of rockfish in other groundfish operations are much lower than 20 percent. The existing standards for rockfish would allow vessels to target covertly on rockfish during the period when this fishery is closed, provided retained amounts of rockfish are less than 20 percent of other fish or fish products on board. As a result, high bycatch rates of chinook salmon and halibut associated with target operations for rockfish could continue. Reduction of the directed fishing standard for GOA rockfish to 15 percent rockfish relative to deep-water flatfish, flathead sole, and sablefish, plus 5 percent rockfish relative to all other fish species, would effectively limit bycatch of chinook salmon and halibut by eliminating covert target operations for rockfish, while allowing adequate bycatch of rockfish in other fisheries.

Revise GOA and BSAI Directed Fishing Standards To Limit More Effectively Bycatch Amounts of Prohibited Species and Groundfish for Which Directed Fishery Closures Have Been Implemented

The following two changes to directed fishing standards are proposed to allow for more effective directed fishing closures that limit further bycatch of prohibited species:

(1) Revise the definition of "fishing trip" for purposes of the BSAI and GOA directed fishing standards so that a trip terminates at the end of a weekly reporting period; and

(2) Add a new directed fishing standard for trawl vessels using pelagic trawl gear in order to limit the aggregate amount of groundfish species or species groups for which a directed fishing closure is implemented to 7 percent of the amount of all other fish or fish products, in round weight equivalents,

retained on the vessel at the same time during the same trip.

These changes to directed fishing standards are proposed to respond to public comment and testimony, which indicated that large numbers of vessels legally circumvent directed fishing closures implemented to limit further bycatch amounts of prohibited species. Without the proposed changes, loopholes in existing regulations will allow for continued target operations on groundfish species closed to directed fishing, associated bycatch amounts of prohibited species will accrue without restriction, and PSC limits will be exceeded, leading to significant social and economic conflict between groundfish fishermen and halibut, salmon, and crab fishermen.

The revised definition of "fishing trip" is necessary to limit the opportunity for fishermen to "top off" retained amounts of fish with catches of groundfish species for which directed fishing is prohibited and to limit further bycatch amounts of prohibited species. This activity is particularly a concern on board those processor vessels that offload infrequently and maintain large amounts of retained fish product on board, which can be used to balance off covert target operations in closed fisheries. Covert operations will result in additional bycatch amounts of prohibited species, resulting in PSC limits being exceeded.

The new directed fishing standard for groundfish caught with pelagic trawl gear is necessary to limit the use of modified pelagic trawl gear to target on bottom-dwelling groundfish species that are closed to directed fishing with non-pelagic trawl gear. These fishery closures are normally caused when a fishery attains a specified prohibited species bycatch allowance and are intended to limit further bycatch of prohibited species in that fishery. Existing directed fishing standards allow up to 20 percent of the retained groundfish catch in a pelagic trawl pollock fishery to be comprised of other groundfish species. These allowances are unnecessarily high for genuine off-bottom operations and allow for covert targeting on other groundfish species by vessel operators using modified pelagic trawl gear. This activity results in continued high bycatch amounts of prohibited species and contributes to annual overages of PSC limits. Such overages would be largely eliminated by reducing the directed fishing standards for groundfish caught with pelagic trawl gear to the proposed level of 7 percent.

Classification

This proposed rule is published under section 304(a)(1)(D) of the Magnuson Act, as amended by Public Law 99-659, which requires the Secretary to publish regulations proposed by the Council within 15 days of receipt of a fishery management plan amendment and regulations. At this time, the Secretary has not determined that the amendments these regulations would implement are consistent with the national standards, other provisions of the Magnuson Act, and other applicable laws. The Secretary, in making these determinations, will take into account the data and comments received during the comment period.

The Council prepared an EA for the proposed FMP and regulatory amendments that discusses the impact on the environment as a result of this rule. A copy of the EA may be obtained from the Council and comments on it are requested (see **ADDRESSES**).

This proposed rule is exempt from the procedures of E.O. 12291 under section 8(a)(2) of that order. Deadlines imposed under the Magnuson Act, as amended, by Public Law 99-659, require the Secretary to publish this proposed rule 15 days after its receipt. The proposed rule is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow procedures of the order.

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has initially determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291. This determination is based on the EA/RIR/IRFA prepared by the Council that concludes that none of the proposed measures in this rule would cause impacts considered significant for purposes of this Executive order. The proposed rule, if adopted, is not likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies or geographic regions; or a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. A copy of this review is available from the Council (see **ADDRESSES**).

The Assistant Administrator concludes that this proposed rule, if adopted, would have a significant

economic impact on a substantial number of small entities. Over 2,000 vessels were issued Federal groundfish permits in 1991, many of which could be affected by this proposed rule. This determination is based on the EA/RIR/IRFA prepared by the Council. A copy of the RIR is available from the Council (see **ADDRESSES**). If the proposed rule is implemented and the proposed expansion of the incentive program is effective, the gross and net wholesale value of the BSAI groundfish catch would be reduced by more than 5 percent, although this change may not be statistically significant. The associated gross and net wholesale costs to other halibut, crab, salmon, and herring fisheries as a result of bycatch in the BSAI groundfish fisheries would be reduced by about 14 percent. These results are based on a bycatch model that ignores any costs associated with actions the groundfish industry takes to reduce bycatch rates. These costs are unknown, but they are assumed to be lower than the costs of foregone revenue to the groundfish industry that would result from reducing prohibited species bycatch amounts through reduced opportunity to harvest available groundfish.

The proposed rule contains no collection-of-information requirements subject to the Paperwork Reduction Act.

NMFS has determined that none of the proposed management measures would adversely affect endangered or threatened species within the purview of NMFS. Therefore, formal consultation pursuant to section 7 of the Endangered Species Act is not required for the implementation of this rule.

The Council determined that this rule, if adopted, will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management program of the State of Alaska. This determination has been submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act.

This proposed rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

List of Subjects in 50 CFR Parts 672 and 675

Fisheries, Reporting and recordkeeping requirements.

Dated: May 21, 1992.

Samuel W. McKeen,

*Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

Note: Tables 1 and 2 will not appear in the Code of Federal Regulations.

TABLE 1.—PROPOSED 1992 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL FISHERIES

| Fisheries | Zone 1 | Zone 2 | Zones 1+2H | BSAI-wide |
|---|-----------|-----------|-----------------|-------------------|
| Red king crab, number of animals: | | | | |
| Yellowfin sole | 75,000 | | | |
| Rcksol/oth.flat ¹ | 85,000 | | | |
| Turb/arrow/sab ² | 0 | | | |
| Rockfish | 0 | | | |
| Pacific cod | 10,000 | | | |
| Pick/Atka/othr ³ | 30,000 | | | |
| Total | 200,000 | | | |
| C. bairdi Tanner crab, number of animals: | | | | |
| Yellowfin sole | 100,000 | 1,225,000 | | |
| Rcksol/oth.flat | 700,000 | 300,000 | | |
| Turb/arrow/sab | 0 | 0 | | |
| Rockfish | 0 | 50,000 | | |
| Pacific cod | 75,000 | 712,500 | | |
| Pick/Atka/othr | 125,000 | 712,500 | | |
| Total | 1,000,000 | 3,000,000 | | |
| Pacific halibut, metric tons: | | | Primary halibut | Secondary halibut |
| Yellowfin sole | | | 743 | 849 |
| Rcksol/oth.flat | | | 660 | 755 |
| Turb/arrow/sab | | | 0 | 0 |
| Rockfish | | | 175 | 200 |
| Pacific cod | | | 1,343 | 1,537 |
| Pick/Atka/othr | | | 1,479 | 1,692 |
| Total | | | 4,400 | 5,033 |
| Pacific herring, metric tons: | | | | |
| Midwater pollock | | | | 573 |
| Yellowfin sole | | | | 134 |
| Rcksol/oth.flat | | | | 0 |
| Turb/arrow/sab | | | | 0 |
| Rockfish | | | | 10 |
| Pacific cod | | | | 29 |
| Pick/Atka/othr ⁴ | | | | 210 |
| Total | | | | 956 |

¹ Rock sole and other flatfish fishery category

² Greenland turbot, arrowtooth flounder, and sablefish fishery category

³ Pollock, Atka mackerel, and "other species" fishery category

⁴ Pollock other than midwater pollock, Atka mackerel, and "other species" fishery category.

TABLE 2.—PROPOSED SEASONAL APPORTIONMENT OF THE 1992 HALIBUT BYCATCH ALLOWANCES

| Fishery | Seasonal bycatch allowance (mt halibut) |
|--|---|
| Yellowfin sole: | |
| May 01–Aug. 02 | 424 |
| Aug. 03–Dec. 31 | 425 |
| Total | 849 |
| Rock sole/"other flatfish": | |
| Jan. 01–Mar. 29 | 566 |
| Mar. 30–Jun. 28 | 95 |
| Jun. 29–Sep. 27 | 94 |
| Sep. 28–Dec. 31 | (¹) |
| Total | 755 |
| Turbot/arrowtooth flounder/sablefish: | |
| Jan. 01–Dec. 31 | 0 |
| Rockfish: | |
| Jan. 01–Mar. 29 | 20 |
| Mar. 30–Jun. 28 | 60 |
| Jun. 29–Sep. 27 | 120 |
| Sep. 28–Dec. 31 | (¹) |
| Total | 200 |
| Pacific cod: | |
| Jan. 01–Jun. 28 | 1,301 |
| Jun. 29–Sep. 27 | 236 |
| Sep. 28–Dec. 31 | (¹) |
| Total | 1,537 |
| Pollock/Atka mackerel/"other species": | |
| Jan. 01–Apr. 15 | 1,221 |
| Apr. 16–May. 31 | 0 |

TABLE 2.—PROPOSED SEASONAL APPORTIONMENT OF THE 1992 HALIBUT BYCATCH ALLOWANCES—Continued

| Fishery | Seasonal bycatch allowance (mt halibut) |
|----------------------------------|---|
| Jun. 01–Dec. 31 | 471 |
| Total | 1,692 |
| Total 1992 Halibut Bycatch Limit | 5,033 |

¹ Remainder.

For the reasons set out in the preamble, 50 CFR parts 672 and 675 are proposed to be amended as follows:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for 50 CFR part 672 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 672.20, paragraphs (g) (2) through (7) are redesignated as paragraphs (g) (4) through (9) respectively, newly designated paragraph (g)(6) and existing paragraphs

(f)(1)(i) and (h)(2) are revised, and new paragraphs (g)(2) and (g)(3) are added to read as follows:

§ 672.20 General limitations.

* * *

(f) * * *

(1) * * *

(i) *Trawl gear.* If, during the fishing year, the Regional Director determines that the catch of halibut by operators of vessels using trawl gear and delivering their catch to foreign vessels (JVP vessels) or operators of vessels using trawl gear and delivering their catch to U.S. fish processors or processing their catch on board (DAP vessels) will reach their proportional share of the seasonal apportionment of the halibut PSC limit provided for under paragraph (f)(2) of this section, NMFS will publish a notice in the *Federal Register* prohibiting directed fishing for groundfish by JVP or DAP vessels, as appropriate, with trawl gear, except for pollock using pelagic trawl gear, for the remainder of the season to which the PSC allocation applies.

* * *

(g) * * *

(2) *Using trawl gear for rockfish of the genera *Sebastes* and *Sebastolobus*.* The operator of a vessel is engaged in directed fishing for rockfish if he retains at any particular time during a trip an aggregate amount of rockfish species for which a directed fishery closure applies, that is equal to or greater than the sum of 15 percent of the aggregate amount of deep-water flatfish, flathead sole, sablefish, and other rockfish species for which directed fisheries are open, retained at the same time on the vessel during the same trip, and 5 percent of the total amount of other fish species retained at the same time on the vessel during the same trip.

(3) *Using pelagic trawl gear for groundfish species closed to directed fishing.* The operator of a vessel using pelagic trawl gear is engaged in directed fishing for groundfish species or species groups for which directed fishing is closed under paragraph (c)(2) or (f)(1) of this section, if he retains at any time during a trip an aggregate amount of these groundfish species or species groups equal to or greater than 7 percent of the amount of other fish or fish products, in round weight equivalents, retained at the same time on the vessel during the same trip.

(6) *Other.* Except as provided under paragraphs (g)(1) through (g)(5) of this section, the operator of a vessel is engaged in directed fishing for a specific species or species group if he retains at any particular time during a trip that species or species group in an amount equal to or greater than 20 percent of the amount of all other fish species retained at the same time on the vessel during the same trip.

(h) * * *

(2) *Trip.* For purpose of this section, the operator of a vessel is engaged in a single fishing trip in an area from the commencement of, or continuation of, fishing after the effective date of a notice prohibiting directed fishing in the area under paragraphs (c)(2) or (f)(1) of this section until either the end of a weekly reporting period, the vessel enters or leaves an area to which a directed fishing prohibition applies, or until any offload or transfer of any fish or fish product from that vessel, whichever occurs first.

3. In § 672.22, paragraphs (b) and (c) are redesignated as paragraphs (c) and (d), respectively, paragraph (a) is revised, and a new paragraph (b) is added, to read as follows:

§ 672.22 Inseason adjustments.

(a) *General.* (1) Inseason adjustments issued by the Secretary under this paragraph include:

- (i) The closure, extension, or opening of a season in all or part of a management area;
- (ii) Modification of the allowable gear to be used in all or part of a management area;
- (iii) The adjustment of TAC and PSC limits; and
- (iv) Interim closures of statistical areas, or portions thereof, to directed fishing for specified ground fish species.

(2) Any inseason adjustment taken under paragraphs (a)(1) (i), (ii), or (iii) of this section must be based on a determination that such adjustments are necessary to prevent:

- (i) The overfishing of any species or stock of fish or shellfish; or
- (ii) The harvest of a TAC for any groundfish species or the taking of a PSC limit for any prohibited species that on the basis of the best available scientific information, is found by the Secretary to be incorrectly specified; or
- (iii) The underharvest of a TAC or gear share of a TAC for any groundfish species when catch information indicates that the TAC or gear share has not been reached.

(3) Any inseason closure of a statistical area, or portion thereof, under paragraph (a)(1)(iv) of this section, must be based upon a determination that such closures are necessary to prevent:

- (i) A continuation of relatively high bycatch rates of prohibited species specified under § 672.20(e) of this part in a statistical area, or portion thereof;
- (ii) The take of an excessive share of PSC limits or bycatch allowances established under § 672.20(f)(2) of this part by vessels fishing in a statistical area, or portion thereof;
- (iii) The closure of one or more directed fisheries for groundfish due to excessive prohibited species bycatch rates occurring in a specified fishery operating within all or part of a statistical area; or
- (iv) The premature attainment of established PSC limits or bycatch allowances and associated loss of opportunity to harvest the groundfish OY.

(4) The selection of the appropriate inseason management adjustments under paragraphs (a)(1)(i) and (a)(1)(ii) of this section must be from the following authorized management measures and must be based upon a determination by the Regional Director that the management adjustment selected is the least restrictive

necessary to achieve the purpose of the adjustment:

- (i) Any gear modification that would protect the species in need of conservation, but which would still allow other fisheries to continue; or
- (ii) An inseason adjustment which would allow other fisheries to continue in noncritical areas and time periods; or
- (iii) Closure of a management area and season to all groundfish fishing; or
- (iv) Reopening of a management area or season to achieve the TAC or gear share of a TAC for any of the target species or the "other species" category.

(5) The adjustment of a TAC or PSC limit for any species under paragraph (a)(1)(iii) of this section must be based upon a determination by the Regional Director that the adjustment is based upon the best available scientific information concerning the biological stock status of the species in question and that the currently specified TAC or PSC limit is incorrect. Any adjustment to a TAC or PSC limit must be reasonably related to the change in biological stock status.

(6) The inseason closure of a statistical area, or a portion thereof, under paragraph (a)(1)(iv) of this section shall not extend beyond a 60-day period unless information considered under paragraph (b) of this section warrants an extended closure period. Any closure of a statistical area, or portion thereof, to reduce prohibited species bycatch rates requires a determination by the Regional Director that the closure is based on the best available scientific information concerning the seasonal distribution and abundance of prohibited species and bycatch rates of prohibited species associated with various groundfish fisheries.

(b) *Data.* All information relevant to one or more of the following factors may be considered in making the determinations required under paragraphs (a) (2) and (3) of this section:

- (1) The effect of overall fishing effort within a statistical area;
- (2) Catch per unit of effort and rate of harvest;
- (3) Relative distribution and abundance of stocks of groundfish species and prohibited species within all or part of a statistical area;
- (4) The condition of a stock in all or part of a statistical area;
- (5) Inseason prohibited species bycatch rates observed in groundfish fisheries in all or part of a statistical area;
- (6) Historical prohibited species bycatch rates observed in groundfish fisheries in all or part of a statistical area;

(7) Economic impacts on fishing businesses affected; or

(8) Any other factor relevant to the conservation and management of groundfish species or any incidentally caught species that are designated as prohibited species or for which a PSC limit has been specified.

4. In § 672.23, paragraphs (a) and (f) are revised and new paragraph (g) is added to read as follows:

§ 672.23 Seasons.

(a) Fishing for groundfish in the regulatory areas and districts of the Gulf of Alaska is authorized from 00:01 a.m., Alaska local time (A.L.T.), January 1, through 12 midnight, A.L.T., December 31, subject to the other provisions of this part, except as provided in paragraphs (b) through (g) of this section.

(f) Directed fishing for rockfish of the genera *Sebastes* and *Sebastolobus* with trawl gear is authorized from 12:00 noon, A.L.T., on the first day of the third quarterly reporting period of a fishing year, through 12 midnight, A.L.T., December 31, subject to other provisions of this part.

(g) Notwithstanding other provisions of this part, fishing for groundfish with trawl gear in the Gulf of Alaska is prohibited from 00:01 a.m., A.L.T., on January 1, through 12 noon, A.L.T., January 20.

5. In § 672.26, paragraphs (a)(2) (ii) and (b) are revised as follows:

§ 672.26 Program to reduce prohibited species bycatch rates.

(a) * * *

(2) * * *

(ii) *Bycatch rate* refers to the ratio of the total round weight of halibut, in kilograms, to the total round weight, in metric tons, of groundfish for which a TAC has been specified under § 672.20 of this part while participating in the midwater pollock or "other trawl" fisheries as defined in paragraph (b) of this section.

(b) *Fisheries*. A vessel will be subject to this section if the groundfish catch of the vessel is observed on board the vessel, or on board a mothership processor that receives unsorted codends from the vessel, at any time during a weekly reporting period, and the vessel is assigned under paragraph (d)(3)(i)(A) of this section to either the midwater pollock fishery or the "other trawl" fishery as defined in paragraphs (b)(1) and (2) of this section. During any weekly reporting period, a vessel's observed catch composition of groundfish species for which a TAC has

been specified under § 672.20 of this part will determine the fishery to which the vessel is assigned, as follows:

(1) The *mid-water pollock fishery* means a trawl fishing that results in an observed groundfish catch during a weekly reporting period that is composed of 95 percent or more of pollock;

(2) The *other trawl fishery* means trawl fishing that results in an observed groundfish catch during a weekly reporting period that does not qualify as a mid-water pollock fishery under paragraph (b)(1) of this section.

PART 675—GROUND FISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

6. The authority citation for part 675 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

7. In § 675.20 paragraphs (h)(1) and (i)(2) are revised as follows:

§ 675.20 General limitations.

(h) * * * (1) *Using pelagic trawl gear for groundfish species closed to directed fishing*. The operator of a vessel using pelagic trawl gear is engaged in directed fishing for groundfish species or species groups for which directed fishing is closed under paragraph (a)(8) of this section or § 675.21(c) of this part, if he retains at any time during a trip an aggregate amount of these groundfish species or species groups equal to or greater than 7 percent of the amount of other fish or fish products, in round weight equivalents, retained on the vessel at the same time during the same trip.

(i) * * *

(2) *Trip*. For purposes of this section, the operator of a vessel is engaged in a single fishing trip in an area from the commencement of, or continuation of, fishing after the effective date of a notice prohibiting directed fishing in the area under paragraph (a)(8) of this section or § 675.21(c) of this part until either:

(i) The end of a weekly reporting period;

(ii) The vessel enters or leaves an area to which a directed fishing prohibition applies; or

(iii) Until any offload or transfer of any fish or fish product from that vessel, whichever occurs first.

8. In § 675.21, paragraph (a)(5) is suspended through December 31, 1992; paragraph (b) heading and paragraphs

(b)(1), (b)(2), (b)(4), and (c) are revised; paragraphs (d), (e) and (f) are removed; and new paragraphs (a)(8), (a)(9), and (d) are temporarily added effective through December 31, 1992, to read as follows:

§ 675.21 Prohibited species catch (PSC) limitations.

(a) * * *

(8) The secondary PSC limit of Pacific halibut caught while conducting any trawl fishery for groundfish in the Bering Sea and Aleutian Islands Management Area during 1992 is an amount of Pacific halibut equivalent to 5,033 mt.

(9) The PSC limit of Pacific halibut caught while conducting any non-trawl fishery for groundfish in the Bering Sea and Aleutian Islands Management Area during 1992 is an amount of Pacific halibut equivalent to 750 mt of halibut mortality.

(b) *Apportionment of PSC limits established for trawl gear fisheries*—(1) *Apportionment to trawl fishery categories*. The Secretary, after consultation with the Council, will apportion each PSC limit into bycatch allowances that will be assigned to fishery categories specified in paragraph (b)(4) of this section, based on each category's proportional share of the anticipated incidental catch during a fishing year of prohibited species for which a PSC limit is specified and the need to optimize the amount of total groundfish harvested under established PSC limits. The sum of all bycatch allowances of any prohibited species will equal its PSC limit.

(i) For purposes of this section, the trawl PSC limits for red king crab, *C. bairdi* Tanner crab, and Pacific halibut will be apportioned to the fishery categories listed at paragraphs (b)(4)(ii) through (vi) of this section. Any amount of red king crab, *C. bairdi* Tanner crab, or Pacific halibut that is incidentally taken in the midwater pollock fishery, as defined at paragraph (b)(4)(i) of this section, will be counted against the bycatch allowances specified for the pollock/Atka mackerel/"other species" category defined at paragraph (b)(4)(vi) of this section.

(ii) For purposes of this section, the PSC limit for Pacific halibut will be apportioned to the fishery categories listed at paragraphs (b)(4)(i) through (vi) of this section.

(2) *Seasonal apportionments of bycatch allowances*. (i) The Secretary, after consultation with the Council, may apportion fishery bycatch allowances on a seasonal basis. The Secretary will base any seasonal apportionment of a

bycatch allowance on the following types of information:

- (A) Seasonal distribution of prohibited species;
- (B) Seasonal distribution of target groundfish species relative to prohibited species distribution;
- (C) Expected prohibited species bycatch needs on a seasonal basis relevant to change in prohibited species biomass and expected catches of target groundfish species;
- (D) Expected variations in bycatch rates throughout the fishing year;
- (E) Expected changes in directed groundfish fishing seasons;
- (F) Expected start of fishing effort; or
- (G) Economic effects of establishing seasonal prohibited species apportionments on segments of the target groundfish industry.

(ii) Unused seasonal apportionments of fishery bycatch allowances made under paragraph (b)(2)(i) of this section will be added to its respective fishery bycatch allowance for the next season during a current fishing year.

(iii) If a seasonal apportionment of a fishery bycatch allowance made under paragraph (b)(2)(i) of this section is exceeded, the amount by which the seasonal apportionment is exceeded will be deducted from its respective apportionment for the next season during a current fishing year.

(4) For purposes of apportioning trawl PSC limits among fisheries, the following fishery categories are specified and defined in terms of round weight equivalents of those groundfish species or species groups for which a TAC has been specified under § 675.20.

(i) *Midwater pollock fishery*. Fishing with trawl gear during any weekly reporting period that results in a catch of pollock that is 95 percent or more of the total amount of groundfish caught during the week.

(ii) *Flatfish fishery*. Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of rock sole, "other flatfish," and yellowfin sole that is greater than the retained amount of any other fishery category defined under paragraph (b)(4) of this section.

(A) *Yellowfin sole fishery*. Fishing with trawl gear during any weekly reporting period that is defined as a flatfish fishery under paragraph (b)(4)(ii) of this section and results in a retained amount of yellowfin sole that is 70 percent or more of the retained aggregate amount of rock sole, "other flatfish," and yellowfin sole.

(B) *Rock sole/"other flatfish" fishery*. Fishing with trawl gear during any

weekly reporting period that is defined as a flatfish fishery under paragraph (b)(4)(ii) of this section and is not a yellowfin sole fishery as defined under paragraph (b)(4)(ii)(A) of this section.

(iii) *Greenland turbot/arrowtooth flounder/sablefish fishery*. Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of Greenland turbot, arrowtooth flounder, and sablefish that is greater than the retained amount of any other fishery category defined under paragraph (b)(4) of this section.

(iv) *Rockfish fishery*. Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of rockfish species of the genera *Sebastes* and *Sebastolobus* that is greater than the retained amount of any other fishery category defined under paragraph (b)(4) of this section.

(v) *Pacific cod fishery*. Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of Pacific cod that is greater than the retained amount of any other groundfish fishery category defined under paragraph (b)(4) of this section.

(vi) *Pollock/Atka mackerel/"other species"*. Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of pollock other than pollock harvested in the midwater pollock fishery defined at paragraph (b)(4)(i) of this section, Atka mackerel, and "other species" that is greater than the retained amount of any other fishery category defined under paragraph (b)(4) of this section.

(c) *Attainment of a trawl fishery bycatch allowance*—(1) *Attainment of a trawl bycatch allowance for red king crab, C. bairdi Tanner crab or Pacific halibut*—

(i) *Zone 1 red king crab or C. bairdi Tanner crab bycatch allowance*. If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (b)(4) (ii) through (vi) of this section will catch the Zone 1 bycatch allowance, or seasonal apportionment thereof, of red king crab or *C. bairdi* Tanner crab specified for that fishery category under paragraphs (b) (1) through (3) of this section, NMFS will publish a notice in the *Federal Register* closing Zone 1 to directed fishing for aggregate species within that fishery category, except that when a bycatch allowance, or seasonal apportionment thereof, specified for the pollock/Atka mackerel/"other species" fishery category is reached, only directed fishing for pollock is closed to trawl vessels using non-pelagic trawl gear.

(ii) *Zone 2 red king crab or C. bairdi crab bycatch allowance*. If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (b)(4) (ii) through (vi) of this section will catch the Zone 2 bycatch allowance, or seasonal apportionment thereof, of red king crab or *C. bairdi* crab specified for that fishery category under paragraphs (b) (1) through (3) of this section, NMFS will publish a notice in the *Federal Register* closing Zone 2 to directed fishing for aggregate species within that fishery category, except that when a bycatch allowance, or seasonal apportionment thereof, specified for the pollock/Atka mackerel/"other species" fishery category is reached, only directed fishing for pollock is closed to trawl vessels using non-pelagic trawl gear.

(iii) *Primary halibut bycatch allowance*. If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (b)(4) (ii) through (vi) of this section in the Bering Sea and Aleutian Islands Management Area will catch the primary halibut bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraphs (b) (1) through (3) of this section, NMFS will publish a notice in the *Federal Register* closing Zones 1 and 2H to directed fishing for aggregate species within that fishery category, except that when a bycatch allowance, or seasonal apportionment thereof, specified for the pollock/Atka mackerel/"other species" fishery category is reached, only directed fishing for pollock is closed to trawl vessels using non-pelagic trawl gear.

(iv) *Secondary halibut bycatch allowance*. If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the trawl fishery categories listed in paragraphs (b)(4) (ii) through (vi) of this section in the Bering Sea and Aleutian Islands Management Area will catch the secondary halibut bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraphs (b) (1) through (3) of this section, NMFS will publish a notice in the *Federal Register* closing the entire Bering Sea and Aleutian Islands Management Area to directed fishing for aggregate species within that fishery category, except that when a bycatch allowance, or seasonal apportionment thereof, specified for pollock/Atka mackerel/"other species" fishery category is reached, only directed

fishing for pollock is closed to trawl vessels using non-pelagic trawl gear.

(2) *Attainment of a trawl bycatch allowance for Pacific herring.* If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (b)(4) (i) through (vi) of this section in the Bering Sea and Aleutian Islands Management Area will catch the herring bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraphs (b) (1) through (3) of this section, NMFS will publish a notice in the *Federal Register* closing the Herring Savings Areas to directed fishing for aggregate species within that fishery category, except that:

(i) When the midwater pollock fishery category reaches its specified bycatch allowance, or seasonal apportionment thereof, the Herring Savings Areas are closed to directed fishing for pollock with trawl gear; and

(ii) When the pollock/Atka mackerel/"other species" fishery category reaches its specified bycatch allowance, or seasonal apportionment thereof, only the Herring Savings Areas are closed for directed fishing for pollock to trawl vessels using non-pelagic trawl gear.

(d) *Attainment of the halibut PSC limit established for non-trawl gear.* If, during the 1992 fishing year, the Regional Director determines that U.S. fishing vessels participating in any non-trawl gear fishery will catch the Pacific halibut PSC limit established for non-trawl gear at paragraph (a)(9) of this section, NMFS will publish a notice in the *Federal Register* closing the entire Bering Sea and Aleutian Islands Management Area to directed fishing for groundfish by vessels using non-trawl gear.

9. In § 675.23, paragraph (a) is revised and new paragraph (d) is added as follows:

§ 675.23 Seasons.

(a) Fishing for groundfish in the subareas and statistical areas of the Bering Sea and Aleutian Islands is authorized from 00:01 a.m., Alaska local time (A.L.T.), on January 1, through 12:00 midnight, A.L.T., December 31, subject to the other provisions of this part, except as provided in paragraphs (b) through (d) of this section.

(d) Notwithstanding other provisions of this part fishing for groundfish with

trawl gear in the Bering Sea and Aleutian Islands is prohibited from 00:01 a.m., A.L.T. on January 1, through 12 noon, A.L.T., January 20.

10. In § 675.26, paragraphs (a)(2)(ii)(A), (a)(2)(ii)(B), (b), (d)(3)(i)(A), (d)(3)(i)(B), and (d)(3)(i)(C) are revised to read as follows:

§ 675.26 Program to reduce prohibited species bycatch rates.

(a) * * *

(2) * * *

(ii) * * *

(A) The ratio of total round weight of halibut, in kilograms, to the total round weight, in metric tons (mt), of groundfish for which a TAC has been specified under § 675.20 of this part while participating in any of the trawl fishery categories defined at § 675.21(b)(4) (ii) through (vi) of this part;

(B) The ratio of number of red king crab to the total round weight, in mt, of groundfish for which a TAC has been specified under § 675.20 of this part while participating in the yellowfin sole and rock sole/"other flatfish" fishery categories, as defined at § 675.21(b)(4)(ii) (A) and (B) of this part.

(b) *Fisheries.* A vessel will be subject to this section if the groundfish catch of the vessel is observed on board the vessel, or on board a mothership processor that receives unsorted codends from the vessel, at any time during a weekly reporting period, and the vessel is assigned under paragraph (d)(3)(i)(A) of this section to one of the trawl fishery categories defined at § 675.21(b)(4) (ii) through (iv) of this part. During any weekly reporting period, a vessel's observed catch composition of groundfish species or species groups for which a TAC has been specified under § 675.20 of this part, in round weight equivalents, will determine the fishery to which the vessel is assigned under the fishery category definitions set forth at § 675.21(b)(4) (ii) through (vi) of this part.

* * *

(d) * * *

(3) * * *

(i) * * *

(A) *Assignment of vessels to fisheries.*

(1) Catcher processor vessels will be assigned to fisheries at the end of each weekly reporting period based on the round weight equivalent of the retained

groundfish catch composition reported on a vessel's weekly production report that is submitted to the Regional Director under § 675.5(c)(2) of this part.

(2) Catcher vessels that deliver to mothership processors in Federal waters during a weekly reporting period will be assigned to fisheries based on the round weight equivalent of the retained groundfish based on the round weight equivalent of the retained groundfish catch composition reported on the weekly production report submitted to the Regional Director for that week by the mothership under § 672.5(c)(2) of this part.

(3) Catcher vessels delivering groundfish to shoreside processors or to mothership processors in Alaska State waters during a weekly reporting period will be assigned to fisheries based on the round weight equivalent of the groundfish retained by the processor and reported on an Alaska Department of Fish and Game fish ticket as required under Alaska State regulations at A.S. 16.05.690.

(B) At the end of each fishing month during which an observer sampled at least 50 percent of a vessel's total number of trawl hauls retrieved while an observer was on board (as recorded in the vessel's daily logbook required under § 675.5 of this part), the Regional Director will calculate the vessel's bycatch rate based on observer data for each fishery category specified in paragraph (b) of this section to which the vessel was assigned for any weekly reporting period during that fishing month. Only observed data that has been checked, verified, and analyzed by NMFS will be used to calculate vessel bycatch rates for purposes of this section.

(C) The bycatch rate of vessel for a fishery category described under paragraph (b) of this section during a fishing month is a ratio of halibut to groundfish that is calculated by using the total round weight of halibut (in kilograms), or total number of red king crab or chinook salmon, in samples during all weekly category and the total round weight of the groundfish (in metric tons) for which a TAC has been specified under § 675.20 in samples taken during all such periods.

* * *

[FR Doc. 92-12353 Filed 5-28-92; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register

Vol. 57, No. 104

Friday, May 29, 1992

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

May 22, 1992.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., Washington, DC 20250, (202) 690-2118.

Revision

• Food and Nutrition Service, WIC Annual Participation Report, FNS-654, Annually, State or local governments; 1850 responses; 1850 hours, Joan Carroll (703) 305-2710.

Extension

• Agricultural Marketing Service, Almonds Grown in California Marketing Order No. 981, Recordkeeping; on occasion; Monthly, Businesses or other

for-profit; 7023 responses; 4710 hours, Sonia Jimenez (202) 205-2830.

• Forest Service, Application for Permits—Non-Federal Commercial Use of Roads, Restricted by Order, FS-7700-40, On occasion, State or local governments; Farms; Businesses or other for-profit; small businesses or organizations; 2,000 responses; 500 hours, Walt Brooks (202) 205-1023.

• Forest Service, Ski Area Term Special Use Permit—36 CFR part 251, FS-2700-24, Recordkeeping; Annually, Individuals or households; State or local governments; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 5 responses; 60 hours, John Shilling (202) 205-1426.

• Forest Service, Special Use Application and Report—Request for Termination of and Application for Special Use Permit—Application for Transportation and Utility Systems and Facilities on Federal Lands, FS-2700-3; SF299; FS-2700-3a, On occasion, Individual or households; State or local governments; Farms, Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations; 7,400 responses 25,000 hours, Mark Scheibel (202) 205-1358.

New Collection

• Forest Service, Hell's Canyon Discovery Center Questionnaire, on occasion, Individuals or households; 1200 responses; 300 hours, Lynn W. Roehm (509) 758-0616.

Larry K. Roberson,
Deputy Departmental Clearance Officer.
[FR Doc. 92-12567 Filed 5-28-92; 8:45 am]

BILLING CODE 3410-01-M

Forest Service

1996 Olympic Whitewater Slalom Course Construction, Ocoee River Whitewater Venue, Ocoee Ranger District, Cherokee National Forest, Polk County, TN.

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare, using a contractor, an environmental impact statement on a proposed action to authorize the

development and operation of a canoe/kayak whitewater slalom course and the associated visitor and administrative facilities in and along the Ocoee River and to authorize the use of these facilities for Olympic and pre-Olympic events in connection with the 1996 summer games.

The Forest Service, Tennessee Valley Authority, and State of Tennessee jointly manage recreational use on sections of the Ocoee River. The proposed site is on lands administered by the Cherokee National Forest, Tennessee. Therefore, the Forest Service is the lead agency and is responsible for the preparation of the environmental impact statement. The Tennessee Valley Authority, the Tennessee Department of Environment and Conservation, and the Tennessee State Planning Office will participate as cooperating agencies in the environmental analysis.

The Forest Service invites comments on the scope of the environmental analysis for the EIS. In addition, the agency gives notice of the environmental analysis and decision making process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the decision.

DATES: Comments should be received by August 1, 1992, to ensure timely consideration.

ADDRESSES: Send written comments to Olympics Coordinator, Cherokee National Forest, P.O. Box 2010, Cleveland, TN 37320.

FOR FURTHER INFORMATION CONTACT: Reese Scull, Recreation Staff Officer, (615) 476-9700.

SUPPLEMENTARY INFORMATION: In 1989 the U.S. Canoe and Kayak Team (USCKT), through the Atlanta Center for Excellence, provided the Atlanta Organizing Committee with a proposal to use the Ocoee River as the 1996 site for whitewater races. The Ocoee River was preferred by the USCKT over southeastern rivers because of its proximity to Atlanta, ability to regulate water flows, and its history as a competitive whitewater site. The final bid package that was accepted in 1990 by the International Olympic Committee (IOC) in Tokyo stated that "If the IOC chooses to include wildwater canoeing in the program, the organizing committee is prepared to stage the

competition on the Ocoee River. * * * Inclusion of the whitewater event in the 1996 games will be determined this year. The Atlanta Committee for the Olympic Games (ACOG) will make its recommendation to the IOC in May, and the IOC will make its decision in July 1992.

The State of Tennessee was invited to sponsor the event, and in 1991 conducted a feasibility study concerning the potential for successfully hosting Olympic events on the Ocoee River. In addition to the cost/benefit information, two site locations on the Ocoee River were explored: the lower Ocoee gorge, site of current whitewater use; and the upper Ocoee river. Public involvement during this period led the USCKT to identify the upper river site as the preferred site location. Among the reasons contributing to this preference were less traffic congestion, ability to locate most of the facilities above the floodplain, and less impact of existing commercial and recreational whitewater use. It is this site that will be studied in this environmental analysis.

Upon completion of the feasibility study, the State of Tennessee, acting as sponsor of the event, submitted a proposal to the Forest Service for an authorization to allow Olympic whitewater slalom events to be conducted on National Forest System land. The events are scheduled to be held during a three day period from July 26, 1996, through July 28, 1996. An estimated 25,000 spectators are expected to attend the events. In 1995, the International Slalom Competition would be held on the Ocoee River on July 29-30. This pre-Olympic competition is estimated to draw 13,000 spectators.

The Forest Service proposed action is based on recommendations of the USCKT and conceptual designs of the Olympic whitewater site developed for the State of Tennessee. The whitewater course would be proposed for a 400 meter-long section of the Ocoee River between Tennessee Valley Authority Dam Number 3 and Dam Number 2. The proposed whitewater course would be located 1.1 river miles above Power House Number 3. Proposed construction of permanent facilities needed for this event include the whitewater course itself to increase water velocity in that section of the river used for competition, plus associated facilities including start and finish points, judging platforms, footbridges over the channel, and administration and visitor services buildings. Much of the Olympic village and spectator seating in the proposed action may be temporary, and removed

after 1996. Housing for athletes will be located off-site.

The decision to be made following the environmental analysis is whether or not the Forest Service will authorize the development and operation of a whitewater slalom course and associated facilities for the 1996 Olympic summer games and associated pre-Olympic events on the Ocoee River and under what conditions such use would be authorized. In addition, other decisions involving any required permits or licenses necessary for this event and associated facilities and their operation may be made as a result of this analysis.

A preliminary public involvement meeting was conducted by the State of Tennessee on December 18, 1991, in Cleveland, Tennessee. Groups and individuals representing public and private sector interests in the Ocoee River were invited to review the findings of the feasibility study, and help identify issues surrounding the event and the proposed location. The following preliminary issues, related to development of the Ocoee River, have been identified:

- (1) Effect on present river outfitters and guides;
- (2) Effects on fish and wildlife habitat including threatened and endangered plant and animal species;
- (3) Effects on existing roads (US Highway 64);
- (4) Effect on public safety on US Highway 64;
- (5) Effect on water quality and stream channel stability;
- (6) Effects on visual resources from construction of buildings and associated facilities;
- (7) Effects on availability of water for power generation;
- (8) Effects on the local economy;
- (9) Effects on existing recreation activities along and within the river;
- (10) Effects on cultural resources;
- (11) Long term effects of maintaining a whitewater course;
- (12) Effects of facilities construction within the floodplain of the Ocoee River.

In preparing the environmental impact statement, a range of alternatives will be considered to meet the purpose and need for the proposed action. They will include as a minimum, the proposed action, the no action alternative, and an alternative that would result in the removal of all facilities following the 1996 Olympics. Additional alternatives may be developed to address significant issues received during the scoping process. The EIS will disclose the direct, indirect, and cumulative effects of implementing each of the alternatives.

Some of the proposed facilities lie within the floodplain of the Ocoee River. Consonant with Executive Order 11988, Floodplain Management Guidelines, the environmental impact statement will analyze and disclose impacts to floodplains and the potential effects of facility construction within the Ocoee River floodplain.

Public participation will be especially important at several points during the analysis process. The first point in the analysis is the scoping process (40 CFR 1501.7). The scoping process includes, but is not limited to:

- (1) Identifying potential issues,
- (2) Identifying issues to be analyzed in depth,
- (3) Eliminating insignificant issues or those which have been covered by a relevant previous environmental analysis,
- (4) Exploring additional alternatives, and
- (5) Identifying potential environmental effects (i.e., direct, indirect, and cumulative) of the alternatives.

The Forest Service is seeking information, comments, and assistance from Federal, State and local agencies, and other individuals or organizations who may be interested in or affected by the proposal. This information will be used in the preparation of the draft environmental impact statement. Notification letters will be sent to all known interested and/or affected parties and the media to solicit public participation.

Workshops will be held to provide information and to gather issues and concerns from the public on the proposed action. When the dates and locations of workshops have been determined, this information will be made known through local media, direct contact with known interested publics, and direct mailings.

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by March 1993. At that time, EPA will publish a notice of availability of the draft environmental impact statement in the **Federal Register**.

The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. Upon release of the draft environmental impact statement, projected for March

1993, reviewers must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon v. Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposal participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

After the comment period ends on the draft environmental impact statement, the comments will be analyzed, considered, and responded to by Agencies in preparing the final environmental impact statement. The final environmental impact statement is scheduled to be completed by September 1993.

The responsible official will consider the comments, responses, and environmental consequences disclosed in the final environmental impact statement, and applicable laws, regulations, and policies in making a decision regarding this proposal. The responsible official will document the decision made and reasons for the decision in a Record of Decision.

The responsible official is John F. Ramey, Forest Supervisor, Cherokee National Forest, P.O. Box 2010, Cleveland, TN 37320.

Dated: May 22, 1992.

John F. Ramey,

Forest Supervisor.

[FR Doc. 92-12541 Filed 5-28-92; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Town Branch Watershed, MO

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Availability of a Record of Decision.

SUMMARY: Russell C. Mills, responsible Federal official for projects administered under the provisions of Public Law 83-566, 16 U.S.C. 1001-1008, in the State of Missouri, is hereby providing notification that a record of decision to proceed with the installation of the Town Branch Watershed project is available. Single copies of this record of decision may be obtained from Russell C. Mills at the address shown below.

FOR FURTHER INFORMATION CONTACT: Russell C. Mills, State Conservationist, Soil Conservation Service, Parkade Center, suite 250, 601 Business Loop 70 West, Columbia, Missouri 65203, telephone (314) 876-0901.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention and Flood Prevention. State and local review procedures for Federal and federally assisted programs and projects are applicable).

Dated: April 17, 1992.

Russell C. Mills,

State Conservationist.

[FR Doc. 92-12575 Filed 5-28-92; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; John Edward Townsend; Order Denying Permission to Apply for or Use Export Licenses

On July 23, 1991, Frederick Components International, Ltd. (hereinafter referred to as Frederick Components) was convicted in the U.S. District Court for the Central District of California of one count of violating the Export Administration Act of 1979, as amended (EAA).¹ The conviction

followed Frederick Components's plea of guilty to one count of a two-count criminal information charging it with, *inter alia*, attempting to export certain articles from the United States without having obtained the required export licenses from the Department of Commerce. Section 11(h) of the EAA provides that, at the discretion of the Secretary of Commerce,² no person convicted of a violation of the EAA, or certain other provisions of the United States Code, shall be eligible to apply for or use any export license issued pursuant to, or provided by, the EAA or the Export Administration Regulations (currently codified at 15 CFR parts 768-799 (1991)) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any export license issued pursuant to the EAA in which such a person had any interest at the time of his conviction may be revoked.

Pursuant to §§ 770.15 and 772.1(g) of the Regulations, upon notification that a person has been convicted of violating the EAA, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any export license issued pursuant to, or provided by, the EAA and the Regulations and shall also determine whether to revoke any export license previously issued to such a person. Having received notice of Frederick Components's conviction for violating the EAA, and following consultations with the Director, Office of Export Enforcement, I have decided to deny Frederick Components permission to apply for or use any export license, including any general license, issued pursuant to, or provided by, the EAA and the Regulations, for a period of 10 years from the date of its conviction. The 10-year period ends on July 23, 2001. I have also decided to revoke all export licenses issued pursuant to the EAA in which Frederick Components had an interest at the time of its conviction.

Accordingly, it is hereby

Ordered

I. All outstanding individual validated licenses in which Frederick Components appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation.

¹ The EAA expired on September 30, 1990. Executive Order 12730 (55 FR 40373, October 2, 1990) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701-1706 (1991)).

² Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the EAA.

Further, all of Frederick Components's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II. Until July 23, 2001, Frederick Components International, Ltd., 20806 Plummer Street, Chatsworth, California 91311, hereby is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity:

(i) As a party or as a representative of a party to any export license application submitted to the Department;

(ii) In preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith;

(iii) In obtaining from the Department or using any validated or general export license, reexport authorization or other export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States, and subject to the Regulations; and

(v) In financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. After notice and opportunity for comment as provided in § 770.15(h) of the Regulations, any person, firm, corporation, or business organization related to Frederick Components by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. As provided in § 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) Apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from

practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) In any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

V. This Order is effective immediately and shall remain in effect until July 23, 2001.

VI. A copy of this Order shall be delivered to Frederick Components, this Order shall be published in the **Federal Register**.

Dated: May 20, 1992.

Iain S. Baird,

Director, Office of Export Licensing.

[FR Doc. 92-12570 Filed 5-28-92; 8:45 am]

BILLING CODE 3510-DT-M

Action Affecting Export Privileges; Shiv Mohan Mukkar; Order Denying Permission to Apply for or Use Export Licenses

On November 27, 1990, Shiv Mohan Mukkar, also known as Shiv Mohan (hereinafter referred to as Mukkar), was convicted in the U.S. District Court for the Western District of Washington of one count of violating the Export Administration Act of 1979, as amended (EAA).¹ The conviction followed Mukkar's plea of guilty to one count of a multiple count indictment charging him with, *inter alia*, exporting certain articles from the United States without having obtained the required export licenses from the Department of Commerce. Section 11(h) of the EAA provides that, at the discretion of the Secretary of Commerce,² no person convicted of a violation of the EAA, or certain other provisions of the United States Code, shall be eligible to apply for or use any export license issued pursuant to, or provided by, the EAA or the Export Administration Regulations (currently codified at 15 CFR parts 768-

¹ The EAA expired on September 30, 1990. Executive Order 12730 (55 F.R. 40373, October 2, 1990) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701-1706 (1991)).

² Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by section 11(h) of the EAA.

799 (1991)) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any export license issued pursuant to the EAA in which such a person had any interest at the time of his conviction may be revoked.

Pursuant to § 770.15 and 772.1(g) of the Regulations, upon notification that a person has been convicted of violating the EAA, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any export license issued pursuant to, or provided by, the EAA and the Regulations and shall also determine whether to revoke any export license previously issued to such a person. Having received notice of Mukkar's conviction for violating the EAA, and following consultations with the Director, Office of Export Enforcement, I have decided to deny Mukkar permission to apply for or use any export license, including any general license, issued pursuant to, or provided by, the EAA and the Regulations, for a period of 10 years from the date of his conviction. The 10-year period ends on November 27, 2000. I have also decided to revoke all export licenses issued pursuant to the EAA in which Mukkar had an interest at the time of his conviction.

Accordingly, it is hereby

Ordered

I. All outstanding individual validated licenses in which Mukkar appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Mukkar's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II. Until November 27, 2000, Shiv Mohan Mukkar also known as Shiv Mohan, with addresses at M:16 Kailash Colony, New Delhi, India, and 1/25 Asafali Road, New Delhi, India, hereby is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity:

(i) As a party or as a representative of a party to any export license application submitted to the Department;

(ii) In preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith;

(iii) In obtaining from the Department or using any validated or general export license, reexport authorization or other export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States, and subject to the Regulations; and

(v) In financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. After notice and opportunity for comment as provided in § 770.15(h) of the Regulations, any person, firm, corporation, or business organization related to Mukkar by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. As provided in § 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) Apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) In any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

V. This Order is effective immediately and shall remain in effect until November 27, 2000.

VI. A copy of this Order shall be delivered to Mukkar. This Order shall be published in the Federal Register.

Dated: May 20, 1992.

Iain S. Baird,

Director, Office of Export Licensing.

[FR Doc. 92-12571 Filed 5-28-92; 8:45 am]

BILLING CODE 3510-DT-M

Action Affecting Export Privileges; John Edward Townsend; Order Denying Permission To Apply for or Use Export Licenses

On August 8, 1990, John Edward Townsend (hereinafter referred to as Townsend) was convicted in the U.S. District Court for the Western District of Washington of one count of violating the Export Administration Act of 1979, as amended (EAA).¹ The conviction followed Townsend's plea of guilty to one count of a multiple count indictment charging him with, *inter alia*, exporting certain articles from the United States without having obtained the required export licenses from the Department of Commerce. Section 11(h) of the EAA provides that, at the discretion of the Secretary of Commerce,² no person convicted of a violation of the EAA, or certain other provisions of the United States Code, shall be eligible to apply for or use any export license issued pursuant to, or provided by, the EAA or the Export Administration Regulations (currently codified at 15 CFR parts 768-799 (1991)) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any export license issued pursuant to the EAA in which such a person had any interest at the time of his conviction may be revoked.

Pursuant to §§ 770.15 and 772.1(g) of the Regulations, upon notification that a person has been convicted of violating the EAA, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any export license issued pursuant to, or provided by, the EAA and the Regulations and shall also determine whether to revoke any export license previously issued to such a person. Having received notice of Townsend's conviction for violating the EAA, and following consultations with the Director, Office of Export Enforcement, I

¹ The EAA expired on September 30, 1990. Executive Order 12730 (55 FR 40373, October 2, 1990) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701-1706 (1991)).

² Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Export Licensing, the consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by section 11(h) of the EAA.

have decided to deny Townsend permission to apply for or use any export license, including any general license, issued pursuant to, or provided by, the EAA and the Regulations, for a period of four years from the date of his conviction. The four-year period ends on August 8, 1994. I have also decided to revoke all export licenses issued pursuant to the EAA in which Townsend had an interest at the time of his conviction.

Accordingly, it is hereby

Ordered

I. All outstanding individual validated licenses in which Townsend appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Townsend's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II. Until August 8, 1994, John Edward Townsend, 26 Summer Place, Merewether Heights, NSW 2291, Australia, hereby is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license, reexport authorization or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States, and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. After notice and opportunity for comment as provided in § 770.15(h) of the Regulations, any person, firm, corporation, or business organization

related to Townsend by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. As provided in § 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) Apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate: (a) In any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

V. This Order is effective immediately and shall remain in effect until August 8, 1994.

VI. A copy of this Order shall be delivered to Townsend. This Order shall be published in the Federal Register.

Dated: May 20, 1992.

Iain S. Baird,

Director, Office of Export Licensing.

[FR Doc. 92-12572 Filed 5-28-92; 8:45 am]

BILLING CODE 3510-DT-M

Action Affecting Export Privileges; David Richard Whyte; Order Denying Permission to Apply for or Use Export Licenses

On August 3, 1990, David Richard Whyte (hereinafter referred to as Whyte) was convicted in the U.S. District Court for the Western District of Washington of one count of violating the Export Administration Act of 1979, as amended (EAA).¹ The conviction

followed Whyte's plea of guilty to one count of a multiple count indictment charging him with, *inter alia*, exporting certain articles from the United States without having obtained the required export licenses from the Department of Commerce. Section 11(h) of the EAA provides that, at the discretion of the Secretary of Commerce,² no person convicted of a violation of the EAA, or certain other provisions of the United States Code, shall be eligible to apply for or use any export license issued pursuant to, or provided by, the EAA or the Export Administration Regulations (currently codified at 15 CFR Parts 768-799 (1991)) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any export license issued pursuant to the EAA in which such a person had any interest at the time of his conviction may be revoked.

Pursuant to §§ 770.15 and 772.1(g) of the Regulations, upon notification that a person has been convicted of violating the EAA, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any export license issued pursuant to, or provided by, the EAA and the Regulations and shall also determine whether to revoke any export license previously issued to such a person. Having received notice of Whyte's conviction for violating the EAA, and following consultations with the Director, Office of Export Enforcement, I have decided to deny Whyte permission to apply for or use any export license, including any general license, issued pursuant to, or provided by, the EAA and the Regulations, for a period of 10 years from the date of his conviction. The 10-year period ends on August 3, 2000. I have also decided to revoke all export licenses issued pursuant to the EAA in which Whyte had an interest at the time of his conviction.

Accordingly, it is hereby

Ordered

1. All outstanding individual validated licenses in which Whyte appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Whyte's privileges of participating, in any manner or capacity,

in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II. Until August 3, 2000, David Richard Whyte, 6 Edwalter Avenue, Toronto, Ontario, Canada M84 1Z3, hereby is denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction in the United States or abroad involving any commodity or technical data exported or to be exported from the United States, in whole or in part, and subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (i) As a party or as a representative of a party to any export license application submitted to the Department; (ii) in preparing or filing with the Department any export license application or request for reexport authorization, or any document to be submitted therewith; (iii) in obtaining from the Department or using any validated or general export license, reexport authorization or other export control document; (iv) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported or to be exported from the United States, and subject to the Regulations; and (v) in financing, forwarding, transporting, or other servicing of such commodities or technical data.

III. After notice and opportunity for comment as provided in § 770.15(h) of the Regulations, any person, firm, corporation, or business organization related to Whyte by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this order.

IV. As provided in § 787.12(a) of the Regulations, without prior disclosure of the facts to and specific authorization of the Office of Export Licensing, in consultation with the Office of Export Enforcement, no person may directly or indirectly, in any manner or capacity: (i) Apply for, obtain, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to an export or reexport of commodities or technical data by, to, or for another person then subject to an order revoking or denying his export privileges or then excluded from practice before the Bureau of Export Administration; or (ii) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or

¹ The EAA expired on September 30, 1990. Executive Order 12730 (55 FR 40373, October 2, 1990) continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. 1701-1706 (1991)).

² Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Export Licensing, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by section 11(h) of the EAA.

otherwise service or participate: (a) In any transaction which may involve any commodity or technical data exported or to be exported from the United States; (b) in any reexport thereof; or (c) in any other transaction which is subject to the Export Administration Regulations, if the person denied export privileges may obtain any benefit or have any interest in, directly or indirectly, any of these transactions.

V. This Order is effective immediately and shall remain in effect until August 3, 2000.

VI. A copy of this Order shall be delivered to Whyte. This Order shall be published in the **Federal Register**.

Dated: May 20, 1992.

Iain S. Baird,

Director, Office of Export Licensing.

[FR Doc. 92-12574 Filed 5-28-92; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[A-427-030]

Large Power Transformers From France; Intent to Revoke Antidumping Finding

AGENCY: International Trade Administration/Import Administration; Department of Commerce.

ACTION: Notice of intent to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on large power transformers from France. Interested parties who object to this revocation must submit their comments in writing not later than June 30, 1992.

EFFECTIVE DATE: May 29, 1992.

FOR FURTHER INFORMATION CONTACT: Joseph Hanley or Laurel LaCivita, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-4733.

SUPPLEMENTARY INFORMATION

Background

On June 14, 1972, the Department of Treasury published an antidumping finding on large power transformers from France (37 FR 28323). The Department of Commerce ("the Department") has not received requests to conduct administrative reviews of this finding for the most recent four consecutive annual anniversary months.

The Department may revoke an order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as

required by section 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this finding.

Opportunity to Object

Not later than June 30, 1992, interested parties, as defined in section 353.2(k) of the Department's regulations, may object to the Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by June 30, 1992, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by June 30, 1992, we shall conclude that the finding is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: May 22, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92-12655 Filed 5-28-92; 8:45 am]

BILLING CODE 3510-D5-M

[A-475-031]

Large Power Transformers From Italy; Intent To Revoke Antidumping Finding

AGENCY: International Trade Administration/Import Administration; Department of Commerce.

ACTION: Notice of intent to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on large power transformers from Italy. Interested parties who object to this revocation must submit their comments in writing not later than June 30, 1992.

EFFECTIVE DATE: May 29, 1992.

FOR FURTHER INFORMATION CONTACT: Joseph Hanley or Laurel LaCivita, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-4733.

SUPPLEMENTARY INFORMATION:

Background

On June 14, 1972, the Department of Treasury published an antidumping finding on large power transformers from Italy (37 FR 23708). The Department of Commerce ("the

Department") has not received requests to conduct administrative reviews of this finding for the most recent four consecutive annual anniversary months.

The Department may revoke an order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by section 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this finding.

Opportunity to Object

Not later than June 30, 1992, interested parties, as defined in section 353.2(k) of the Department's regulations, may object to the Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by June 30, 1992, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by June 30, 1992, we shall conclude that the finding is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: May 22, 1992.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance.

[FR Doc. 92-12656 Filed 5-28-92; 8:45 am]

BILLING CODE 3510-D5-M

[A-428-061]

Precipitated Barium Carbonate From Germany; Intent To Revoke Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration; Department of Commerce.

ACTION: Notice of intent to revoke antidumping duty order.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on precipitated barium carbonate from Germany. Interested parties who object to this revocation must submit their comment in writing not later than June 30, 1992.

EFFECTIVE DATE: May 29, 1992.

FOR FURTHER INFORMATION CONTACT: Robert Marenick, Office of Antidumping Compliance, International Trade

Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On June 25, 1981, the Department of Commerce published an antidumping duty order on precipitated barium carbonate from Germany (46 FR 20438). The Department of Commerce ("the Department") has not received requests to conduct administrative reviews of this antidumping duty order for the most recent four consecutive annual anniversary months.

The Department may revoke an order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by section 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this duty order.

Opportunity to Object

Not later than June 30, 1992, interested parties, as defined in section 353.2(k) of the Department's regulations, may object to the Department's intent to revoke this antidumping duty order.

Seven copies of such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by June 30, 1992, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by June 30, 1992, we shall conclude that the finding is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: May 22, 1992.

Joseph A. Spetrini,
Deputy Assistant Secretary for Compliance.
[FR Doc. 92-12657 Filed 5-28-92; 8:45 am]
BILLING CODE 3510-DS-M

[A-47-078]

Sugar From France; Intent To Revoke Antidumping Finding

AGENCY: International Trade Administration/Import Administration; Department of Commerce.

ACTION: Notice of intent to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its

intent to revoke the antidumping finding on sugar from France. Interested parties who object to this revocation must submit their comments in writing not later than June 30, 1992.

EFFECTIVE DATE: May 29, 1992.

FOR FURTHER INFORMATION CONTACT: Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On June 13, 1979, the Department of Treasury published an antidumping finding on sugar from France (44 FR 33878). The Department of Commerce ("the Department") has not received requests to conduct administrative reviews of this finding for the most recent four consecutive annual anniversary months.

The Department may revoke an order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by section 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this finding.

Opportunity to Object

Not later than June 30, 1992, interested parties, as defined in section 353.2(k) of the Department's regulations, may object to the Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by June 30, 1992, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by June 30, 1992, we shall conclude that the finding is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: May 22, 1992.

Joseph A. Spetrini,
Deputy Assistant Secretary for Compliance.
[FR Doc. 92-12653 Filed 5-28-92; 8:45 am]
BILLING CODE 3510-DS-M

[A-428-082]

Sugar from Germany; Intent to Revoke Antidumping Finding

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of intent to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on sugar from Germany. Interested parties who object to this revocation must submit their comments in writing not later than June 30, 1992.

EFFECTIVE DATE: May 29, 1992.

FOR FURTHER INFORMATION CONTACT: Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On June 13, 1979, the Department of Treasury published an antidumping finding on sugar from Germany (44 FR 33878). The Department of Commerce ("the Department") has not received requests to conduct administrative reviews of this finding for the most recent four consecutive annual anniversary months.

The Department may revoke an order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by section 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this finding.

Opportunity to Object

Not later than June 30, 1992, interested parties, as defined in section 353.2(k) of the Department's regulations, may object to the Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by June 30, 1992, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by June 30, 1992, we shall conclude that the finding is no longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: May 22, 1992.

Joseph A. Spetrini,
Deputy Assistant Secretary for Compliance.
[FR Doc. 92-12654 Filed 5-28-92; 8:45 am]
BILLING CODE 3510-DS-M

International Trade Administration

[A-423-077]

Sugar From Belgium; Intent to Revoke Antidumping Finding

AGENCY: International Trade Administration / Import Administration, Department of Commerce.

ACTION: Notice of intent to revoke antidumping finding.

SUMMARY: The Department of Commerce is notifying the public of its intent to revoke the antidumping finding on sugar from Belgium. Interested parties who object to this revocation must submit their comments in writing not later than June 30, 1992.

EFFECTIVE DATE: May 29, 1992.

FOR FURTHER INFORMATION CONTACT: Robert Marenick, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-5255.

SUPPLEMENTARY INFORMATION:

Background

On June 13, 1979, the Department of Treasury published an antidumping finding on sugar from Belgium (44 FR 33878). The Department of Commerce ("the Department") has not received requests to conduct administrative reviews of this finding for the most recent four consecutive annual anniversary months.

The Department may revoke an order or finding if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by section 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke this finding.

Opportunity to Object

Not later than June 30, 1992, interested parties, as defined in section 353.2(k) of the Department's regulations, may object to the Department's intent to revoke this antidumping finding.

Seven copies of any such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration,

room B-099, U.S. Department of Commerce, Washington, DC 20230.

If interested parties do not request an administrative review by June 30, 1992, in accordance with the Department's notice of opportunity to request administrative review, or object to the Department's intent to revoke by June 30, 1992, we shall conclude that the duty order is not longer of interest to interested parties and shall proceed with the revocation.

This notice is in accordance with 19 CFR 353.25(d).

Dated: May 22, 1992.

Joseph A. Spetrini,
Deputy Assistant Secretary for Compliance.

[FR Doc. 92-12652 Filed 5-28-92; 8:45 am]
BILLING CODE 3510-DS-M

[A-475-603]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Italy; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by an importer, Caterpillar Inc., the Department of Commerce has conducted an administrative review of the antidumping duty order on tapered roller bearings and parts thereof, finished and unfinished, from Italy. The review covers shipments by one exporter to the United States during the period from August 1, 1990 through July 31, 1991.

As a result of the review, the Department has preliminarily determined to assess antidumping duties equal to the weighted-average dumping margin between the United States price and foreign market value with respect to their exporter.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: May 29, 1992.

FOR FURTHER INFORMATION CONTACT: Peter Knapp or Art Stern, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-3793.

SUPPLEMENTARY INFORMATION:

Background

On August 14, 1987, the Department of Commerce ("the Department") published in the Federal Register (52 FR 30417) an antidumping duty order on tapered roller bearings and parts thereof, finished and unfinished ("TRBs") from Italy. On August 22, 1991, Caterpillar, Inc., requested that we conduct an administrative review for the period from August 1, 1990 through July 31, 1991. We published a notice of initiative of the antidumping administrative review on September 18, 1991 (56 FR 47185). The Department has now conducted this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended ("the Tariff Act").

Scope of the Review

Imports covered by this review are TRBs and parts thereof, finished and unfinished, including flange, take-up cartridge, and hanger units incorporating tapered roller bearings, and tapered roller housings (except pillow blocks) incorporating tapered rollers, with or without spindles, whether or not for automotive use. TRBs and parts thereof are currently classified under subheadings 8483.90.30, 8483.90.80, 8482.20.00, 8482.99.30, 8483.20.40, 8483.20.80, and 8483.90.20 of the Harmonized Tariff Schedule ("HTS"). The HTS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

The review covers one manufacturer/exporter, Gnutti Carlo, S.p.A. ("Gnutti"), and the period from August 1, 1990 through July 31, 1991.

Such or Similar Merchandise

Gnutti sold TRBs as separate cup and cone components in the United States, while in its home market it sold sets composed of cups and cones that are identical to those sold separately in the United States. In order to compare the sale of a cup or a cone in the United States to that of a complete set in the home market, we adjusted the home market price for a set by the ratio of the direct manufacturing cost of the cup or cone to that of the complete set.

United States Price

In calculating United States price, the Department used purchase price as defined in section 772 of the Tariff Act. Purchase price was based on the packed, ex-factory prices. In accordance with section 772(d)(1)(C) of the Tariff Act, we added to the United States price the amount of the Italian value-added tax that would have been collected if the export sale had been taxed. We

recalculated credit to reflect the number of days between sale date and shipment date to correct errors in the data provided to us by the respondent. We adjusted packing costs to reflect the rate of inflation between the current period of review and the previous period of review because the data Gnutti provided for packing costs were from the previous period of review. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating the foreign market value, the Department used home market price as defined in section 773(a) of the Tariff Act, because sufficient quantities of such or similar merchandise were sold in the home market to provide a reliable basis for comparison. Home market price was based on the packed, ex-factory prices to unrelated purchasers in the home market. We adjusted for differences in packing costs between the U.S. and home market by adding U.S. packing costs to and subtracting home market packing costs from the foreign market value. We made a circumstance of sale adjustment for differences in credit expenses in accordance with section 356.56 of our regulations. We also made an adjustment for differences in the amounts of value-added taxes. We subtracted commissions when paid in the home market from FMV in accordance with section 353.56(a) of our regulations. Gnutti did not incur any indirect selling expenses on sales to the United States. Therefore, we did not add any such expenses to FMV.

We recalculated credit to reflect the number of days between sale date and payment date to correct errors in the data provided to us by the respondent. We adjusted packing costs to reflect the rate of inflation between the current period of review and the previous period of review because the data Gnutti provided for packing costs were from the previous period of review. No other adjustments were claimed or allowed.

Preliminary Results of Review

As a result of our comparison of the United States price to foreign market value, we preliminarily determine that a margin of 36.85 percent exists for Gnutti for the period August 1, 1990 through July 31, 1991.

Interested parties may request disclosure within five days of the date of publication of this notice and may request a hearing within ten days of publication. Case briefs and/or written comments from interested parties may be submitted not later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments,

limited to issues raised in the case briefs and comments, may be filed not later than 37 days after the date of publication. Any hearing, if requested, will be held 44 days after the date of publication of this preliminary notice or the first workday thereafter. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all entries of the subject merchandise covered by this review. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the U.S. Customs Service upon completion of this administrative review.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rate for the reviewed company will be that rate established in the final results of this administrative review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be the "all other" rate established in the final results of this administrative review. This rate represents the highest rate for any firm with shipments in this administrative review, other than those firms receiving a rate based entirely on best information available.

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping

duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Commerce Department's regulations (19 CFR 353.22).

Dated: May 20, 1992.

Francis J. Sailer,

Acting Assistant Secretary for Import Administration.

[FR Doc. 92-12658 Filed 5-28-92; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

ACTION: Notice of application for an amendment to an Export Trade Certificate of Review.

SUMMARY: The Office of Export Trading Company Affairs (OETCA), International Trade Administration, Department of Commerce, has received an application for an amendment to an Export Trade Certificate of Review. This notice summarizes the amendment and requests comments relevant to whether the Certificate should be amended.

FOR FURTHER INFORMATION CONTACT: George Muller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the *Federal Register* identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination of whether the Certificate should be amended. An original and five (5) copies should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade

Administration, Department of Commerce, room 1800H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 87-8A004."

OETCA has received the following application for an amendment to Export Trade Certificate of Review #87-00004, which was issued on May 19, 1987 (52 FR 19371, May 22, 1987) and previously amended on December 11, 1987 (52 FR 48454, December 22, 1987), January 3, 1989 (54 FR 837, January 10, 1989), April 20, 1989 (54 FR 19427, May 5, 1989), May 31, 1989 (54 FR 24931, June 12, 1989), May 29, 1990 (55 FR 23576, June 11, 1990), June 7, 1991 (56 FR 26140, June 19, 1991), and November 27, 1991 (56 FR 63932, December 6, 1991).

Summary of the Application:

Applicant: National Machine Tool Builders' Association ("NMTBA") a.k.a. NMTBA—The Association for Manufacturing Technology (now known as AMT—The Association For Manufacturing Technology); 7901 Westpark Drive, McLean, Virginia 22102-4269.

Contact: Jerome D. Sorkin, Legal Counsel, Telephone: (202) 662-6000.

Application No.: 87-8A004.

Date Deemed Submitted: May 18, 1992.

Request for Amended Conduct:

NMTBA (now known as AMT—The Association For Manufacturing Technology) seeks to amend its Certificate to:

1. Change the name of its current Export Trade Certificate of Review from "The National Machine Tool Builders' Association (a.k.a. NMTBA—The Association for Manufacturing Technology)" to "AMT—The Association For Manufacturing Technology." The Export Trade, Export Markets, and Export Trade Activities and Methods of Operation covered by the certificate of review are unchanged;

2. Add each of the following companies as a new "Member" of the Certificate: Airlock Manufacturing Company, Birmingham, AL; Automation & Modular Components, Inc., Auburn Hills, MI; Berger Lahr Motion Technology, Inc., Plymouth, MI (controlling entity: Sig-Holding USA, Inc.); Century Machine, Inc., Colter, IA; Control Laser Corporation, Orlando, FL (controlling entity: Quantronix Corporation); D.A. Griffin Corporation, Buffalo, NY; Huron Machine Products, Inc., Fort Lauderdale, FL; Hypneumat, Inc., Milwaukee, WI; J.A.C.P., Inc., Cleves, OH; Lynn Electronics Corp.,

Charlotte, NC; Meti-Saw Systems, Inc., Benicia, CA (controlling entity: Inductotherm Industries); Miyano Machinery USA, Inc., Wood Dale, IL (controlling entity: Miyano Machinery Japan, Inc.); Pacific Roller Die Company, Inc., Hayward, CA; and The J.L. Wickham Company, Inc., Baltimore, MD;

3. Delete each of the following companies as a "Member" of the Certificate: Advanced Technologies, Incorporated; B & H Tool and Machine Corporation; Bayer Industries, Inc.; CIMA USA; Cross & Trecker Corporation; Elb-Florida, Inc.; Ferranti Sciaky, Inc.; Miller Fluid Power; NATCO, Inc.; Roto-Finish Co. Inc.; Siber Hegner North America Inc.; Spitfire, a Unit of General Signal; Standard Tool & Manufacturing Co.; Sweco, Inc.; Textron Inc./North American Machine Tool Division; and Trumpf Industrial Lasers, Inc.; and

4. Change the listing of the company name for the current "member" Giddings and Lewis, A Division of AMCA International Corp., to Giddings & Lewis, Inc.

Dated: May 22, 1992.

George Muller,

Director, Office of Export Trading Company Affairs.

[FR Doc. 92-12551 Filed 5-28-92; 8:45 am]

BILLING CODE 3510-DR-M

National Institute of Standards and Technology

[Docket No. 920515-2115]

Opportunity To Join a Cooperative Research and Development Consortium for Improving the Processing of Ceramic Powders

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology (NIST) seeks industrial and academic parties located in the United States interested in entering into a cooperative research consortium on the development of new technology to develop non-destructive evaluation techniques for measurement of selected properties of powders and ceramic slips to improve processing and facilitate intelligent processing of ceramic powders. Under 15 U.S.C. 3710a(c)(4), NIST will give preference to business units located in the United States which agree that products embodying any invention made in the consortium will be manufactured substantially in the United States. Any program undertaken will be within the

scope and confines of The Federal Technology Transfer Act of 1986 (Pub. L. 99-502, 15 U.S.C. 3710a), which provides federal laboratories including NIST, with the authority to enter into cooperative research agreements with qualified parties. Under this law, NIST may contribute personnel, equipment and facilities—but no funds—to the cooperative research program. NIST intends to conduct a meeting on June 15 and 16, 1992 for interested parties. The meeting will discuss the possible formation of a research consortium including NIST, industry and academia to conduct research in this area. This is not a grant program.

DATE: Interested parties should contact NIST at the address or telephone number shown below but no later than June 10, 1992.

ADDRESS: Dr. Thomas Yolken, Chief, Office of Intelligent Processing of Materials, Materials Bldg., room B344, National Institute of Standards and Technology, Gaithersburg, MD 20899.

FOR FURTHER INFORMATION CONTACT: Dr. H. Thomas Yolken, (301) 975-5727.

SUPPLEMENTARY INFORMATION: NIST seeks qualified United States industrial parties interested in entering into a cooperative consortium research program on the development of new technology to develop non-destructive evaluation techniques for measurement of selected properties of powders and ceramic slips to improve processing and facilitate intelligent processing ceramic powders.

Companies should be prepared to invest adequate resources in the collaboration and be firmly committed to the goal of developing new polymer technology.

This program is being undertaken within the scope and confines of the Federal Technology Transfer Act of 1986 (Pub. L. 99-502, 15 U.S.C. 3710a), which authorizes government owned and operated federal laboratories, including NIST, to enter into cooperative research and development agreements ("CRDAs") with qualified parties. Under the law, a CRDA may provide for contributions from the federal laboratory of personnel, facilities and equipment, but not direct funding. NIST intends to hold a planning meeting on June 15 and 16, 1992 for interested parties.

Dated: May 22, 1992.

John W. Lyons,

Director.

[FR Doc. 92-12485 Filed 5-28-92; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

[Docket No. 920384-2084]

RIN: 0648-AE72

Process for the Management of Highly Migratory Species

AGENCY: National Marine Fisheries Service (NMFS), (NOAA), Commerce.

ACTION: Notice of proposed process and request for comments.

SUMMARY: NOAA issues this notice to propose a process for implementing provisions of the Fishery Conservation Amendments of 1990 (1990 Amendments), Public Law 101-627, concerning the management of highly migratory species in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea. Public Law 101-627 amended both the Magnuson Fishery Conservation and Management Act (Magnuson Act), 16 U.S.C. 1801 *et seq.*, and the Atlantic Tunas Convention Act (ATCA), 16 U.S.C. 971 *et seq.*, concerning the management of highly migratory species. Public Law 101-627 (1) Defines "highly migratory species" to include tuna species, marlin, oceanic sharks, sailfishes, and swordfish. (2) gives the Secretary of Commerce (Secretary), for the first time, management authority over tuna in the U.S. exclusive economic zone (EEZ) under the authority of the Magnuson Act, effective January 1, 1992. (3) transfers to the Secretary management authority for the other highly migratory species in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea, effective November 28, 1990, and (4) directs the Secretary to prepare, amend, and implement fishery management plans (FMPs) and to pursue international fishery management measures for Atlantic highly migratory species. This notice proposes a process that NOAA will follow in preparing, amending, and implementing FMPs and identifies the opportunities for involvement by the public, the Regional Fishery Management Councils (Councils), and the commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements (e.g., International Convention for the Conservation of Atlantic Tunas (ICCAT)).

DATES: Comments must be received on or before July 28, 1992.

ADDRESSES: Comments on this proposed process should be mailed to Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service, 1335 East-West Highway, Silver Spring, Maryland 20910. Please mark the

mailing envelope "Highly Migratory Species Process—Comments."

FOR FURTHER INFORMATION CONTACT: Richard H. Schaefer, Director, Office of Fisheries Conservation and Management, NMFS, Telephone: (301) 713-2334 or Davis A. Hays, Office of Fisheries Conservation and Management, NMFS, Telephone: (301) 713-2343.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Background

On November 28, 1990, the President signed into law the Fishery Conservation Amendments of 1990 (Pub. L. 101-627) which amended both the Magnuson Act and the ATCA. Public Law 101-627 gives the Secretary the authority to manage tuna, as of January 1, 1992, in the EEZ in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea under authority of the Magnuson Act (16 U.S.C. 1811), Public Law 101-627 also transfers from the Councils to the Secretary, effective November 28, 1990, the management authority for the other highly migratory species in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea (16 U.S.C. 1854(f)(3)).

B. Purpose and Scope

The Magnuson Act, at 16 U.S.C. 1854(f)(3), requires that the Secretary undertake the following three major categories of actions regarding the conservation and management of highly migratory species:

1. Identification of research and information priorities, including observer requirements and necessary data collection and analysis;
2. Diligent pursuit, through international management entities (such as the ICCAT), of international fishery management measures; and
3. Preparation and amendment of FMPs.

This notice proposes a process that NOAA intends to follow in undertaking the third category of actions—preparing, implementing, and amending FMPs for Atlantic highly migratory species. It is emphasized that this process is not intended to address the other two categories of actions except in general terms where they affect the development and implementation of fishery management measures for highly migratory species. A separate document, the "NOAA Action Plan for U.S. Preparations for and Representations at the International Commission for the Conservation of Atlantic Tunas (ICCAT)" outlines procedures for U.S. efforts in the international fisheries management arena for Atlantic species

covered by ICCAT (see below). The process described herein is designed to address the statutory planning and rulemaking requirements of both the Magnuson Act and the ATCA regarding management of Atlantic highly migratory species.

C. Highly Migratory Species

The Magnuson Act, at 16 U.S.C. 1802 (14), defines the term "highly migratory species" as tuna species, marlin (*Tetrapturus* spp. and *Makaira* spp.), oceanic sharks, sailfishes (*Istiophorus* spp.), and swordfish (*Xiphias gladius*). Further, the Magnuson Act, at 16 U.S.C. 1802 (27), defines the term "tuna species" as albacore tuna (*Thunnus alalunga*), bigeye tuna (*Thunnus obesus*), bluefin tuna (*Thunnus thynnus*), skipjack tuna (*Katsuwonus pelamis*), and yellowfin tuna (*Thunnus albacares*).

D. Preparation and Amendment of Fishery Management Plans

Required Actions

Public Law 101-627 directs the Secretary to undertake the following actions in preparing and amending FMPs for highly migratory species:

1. Conduct public hearing at appropriate times and places;
2. Consult with and consider the comments and views of commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species;
3. Consult with and consider the comments and views of affected Councils;
4. Consult with the Secretary of State;
5. Evaluate the probable effects of conservation and management measures on affected fishery participants, and minimize, to the extent practicable, any disadvantage to U.S. fishermen in relation to foreign competitors; and
6. Review, on a continuing basis, and revise as appropriate, the conservation and management measures contained in an FMP. This review and revision should be promptly conducted whenever a recommendation pertaining to fishing for highly migratory species has been made under a relevant international fishery agreement.

FMP Contents and Other Requirements

Public Law 101-627 directs specifically that the conservation and management measures contained in FMPs for highly migratory species must:

1. Take into consideration traditional fishing patterns of U.S. fishing vessels and the operating requirements of the fisheries;

2. Be fair and equitable in allocating fishing privileges among U.S. fishermen and not have economic allocation as the sole purpose;

3. Promote international conservation; and

4. Provide fishing vessels of the United States with a reasonable opportunity to harvest any allocation or quota under a relevant international fishery agreement.

Atlantic Tunas Convention Act (ATCA)

Public Law 101-627 amends the ATCA, which provides for the conservation and management of tuna and tuna-like species under the authority of the ICCAT. These ATCA amendments include the following provisions:

1. The U.S. ICCAT Commissioners may establish species working groups for the purpose of providing advice and recommendations to the Commissioners and the ICCAT Advisory Committee on matters relating to the conservation and management of any highly migratory species covered by the ICCAT;

2. Regulations promulgated under the ATCA shall, to the extent practicable, be consistent with FMPs prepared and implemented under the Magnuson Act; and

3. Regulations promulgated under the ATCA to carry out any recommendation of the ICCAT may not have the effect of increasing or decreasing any allocation or quota of fish to the United States agreed upon pursuant to an ICCAT recommendation.

Relationship Between the Magnuson Act and the ATCA

Public Law 101-627 does not clearly address the relationship between the Magnuson Act and the ATCA. This notice proposes a planning and rulemaking process that NOAA believes to be consistent with both the Magnuson Act and the ATCA. Whenever practicable, NOAA will issue one regulation under the authority of both statutes.

NOAA recognizes the need to integrate fishery management and research efforts regarding domestic fisheries for highly migratory species with U.S. actions and initiatives within ICCAT or other international fisheries management entities. This means that fishery management planning and regulatory actions under both the Magnuson Act and the ATCA must be carefully coordinated to ensure effective conservation and management of the fishery resources throughout their full range. NOAA has prepared an "Action plan for U.S. Preparations for and Representations at the ICCAT" that

formalizes a process for developing U.S. scientific and management positions prior to each annual ICCAT meeting. The Action Plan establishes a protocol for NOAA interactions with the ICCAT Commissioners and the Advisory Committee. Copies of the Action Plan are available from the address indicated above.

E. Other

On January 25, 1991, The Blue Water Fishermen's Association (BWFA) and eight other organizations representing fishermen and processors submitted to NOAA a discussion paper entitled "Atlantic Highly Migratory Species Proposed Management Procedures." This paper describes and recommends specific practices, procedures, and policies that the BWFA believes the Secretary should adopt in fulfilling her responsibilities for managing highly migratory species under Public Law 101-627. NOAA has considered these recommendations in preparing this notice of a proposed management process and has included BWFA's paper in the administrative record. At the request of the BWFA, NOAA is informing the public that this paper is available upon request from the address above.

II. Proposed Process for the Management of Highly Migratory Species

A. General

This notice proposes a general process for the preparation and implementation of (1) Fishery Management Plans (FMPs), (2) FMP amendments, and (3) international management measures for highly migratory species as required by: the Fishery Conservation Amendments of 1990, Public Law 101-627; the Magnuson Act, 16 U.S.C. 1801 *et seq.*; and the ATCA, 16 U.S.C. 971 *et seq.* This process will be followed by NOAA in fulfilling the Secretary's responsibilities for managing highly migratory species under these statutes.

Under the provisions of Public Law 101-627 for managing highly migratory species, several possible regulatory scenarios exist including: (1) An FMP that includes no international fishery management measures (e.g., those species for which ICCAT has made no recommendations to date, such as oceanic sharks); (2) an FMP that includes international fishery management measures authorized by and consistent with both Magnuson Act and ATCA requirements (e.g., the FMP for Atlantic Swordfish containing measures implementing the ICCAT's recommendations); and (3) international

fishery management measures, based upon the ICCAT's recommendations, implemented under the ATCA but not yet included within an FMP (e.g., Atlantic tuna regulations promulgated under the ATCA before preparation of and inclusion within an FMP). This notice of a proposed management process primarily addresses the first two of these alternatives. The process for promulgating Atlantic tuna regulations under the ATCA does not require as many steps or as much time as is required for preparation of an FMP or amendment under the Magnuson Act. The rulemaking process followed wherein the ICCAT's recommendations would be implemented by regulations in the absence of an FMP is discussed in this notice in abbreviated form; this particular rulemaking process would be used to implement the ICCAT's recommendations for an interim period until FMPs are prepared for all the highly migratory species designated by the Magnuson Act as amended by Public Law 101-627.

B. Process for the Preparation and Implementation of FMPs and FMP Amendments—Outline of Major Events and Actions

Presented below is an outline of the process (including major actions undertaken or events occurring in the order listed) for preparing, implementing, and amending FMPs for highly migratory species. The process is shown diagrammatically in figure 1.

1. Phase 1—Planning and Scoping
 - a. General
 - b. Notice of intent
 - c. Issues/options statement
 - d. Initial consultations; meetings with constituents
 - e. Public hearings
2. Phase 2—Preparation of draft documents; consultations
 - a. General
 - b. Documents to be prepared
 - c. Preparation strategy
 - d. Document contents
 - e. International management recommendations
 - f. Timing
 - g. Consultations; meetings with constituents
3. Phase 3—First public review and comment period; public hearings; NEPA review
 - a. General
 - b. Notice to the public
 - c. Review periods and comments
 - d. Public hearings
4. Phase 4—Preparation of draft final documents and proposed regulations; consultations
 - a. General
 - b. Documents to be prepared
 - c. Preparation strategy
 - d. Document contents
 - e. Timing

- f. Consultations; meetings with constituents
- 5. Phase 5—Second public review and comment period; publish proposed regulations; public hearings
 - a. General
 - b. Notice to the public and proposed regulations
 - c. Review periods and comments
 - d. Public hearings
- 6. Phase 6—Preparation of final documents and final regulations
 - a. General
- 7. Phase 7—Approval and implementation
 - a. General
 - b. Approval procedures and timing
- 8. Phase 8—Continuing and contingency fishery management
 - a. General
 - b. Framework management measures
 - c. Contingency fishery management—emergency actions

C. Process for the Preparation and Implementation of FMPs and FMP Amendments—Detailed Procedures

1. Phase 1—Planning and Scoping

a. General. The objectives of Phase 1 include (1) determining the nature and scope of the specified fishery's management issues that need to be addressed and identifying possible management approaches for their resolution and (2) providing consulting parties, fishery constituents, and the general public an opportunity to communicate their views early in the rulemaking process.

b. Notice-of-intent. NOAA will publish in the *Federal Register* a notice-of-intent to prepare an FMP or FMP amendment, promulgate new or amend existing regulations, and prepare, when applicable, an environmental impact statement. The notice will serve to notify the public of any scheduled public hearings. The notice will contain (1) a statement of the Secretary's intent to prepare and implement an FMP or amendment, promulgate new or amend existing regulations, and prepare, when applicable, an environmental impact statement; (2) appropriate information concerning the availability of any relevant issues/options statement (see paragraph c below); (3) a preliminary schedule of events; (4) dates, times and places of any scheduled public hearings or scoping or other public meetings; and (5) a statement of whether or not the FMP or amendment will include any measures intended to implement fishery management recommendations of ICCAT (or other international fishery management body).

The NMFS Office of Fisheries Conservation and Management will notify constituents of forthcoming management actions regarding highly migratory species. A master list of affected Councils, ICCAT

Commissioners and Advisory Committee members, fishing industry representatives, and constituent organizations will be maintained by this Office to mail advance notices of forthcoming actions. Notices of important hearings, meetings, and regulatory actions will be mailed in advance to all holders of fishing permits under the applicable fishery. Copies of important proposed and final documents (e.g., FMPs and amendments) will be mailed to those requesting such documents.

c. Issues/options statement. NOAA will prepare a brief statement of fishery issues, various options for addressing them, and potential management objectives. If ICCAT has recommended management measures for the fishery of concern, the issues/options statement will outline the Secretary's preliminary recommendations as to the appropriate U.S. actions to implement the ICCAT's recommendations. The issues/options statement will be available to the public upon request, will be summarized in the notice-of-intent, will be distributed to the fishery constituents for review and comment, and will be made available at any public hearings or consultations held during phase 1.

d. Initial consultations and meetings with constituents. NOAA will consult during phase 1 with the U.S. ICCAT Commissioners, the ICCAT Advisory Committee, the affected Councils, and the Department of State and other affected Federal agencies (e.g., U.S. Coast Guard or the U.S. Customs Service). Consultations with some of these parties are required by Public Law 101-627 (e.g., ICCAT Commissioners and Advisory Committee, affected Councils, and the Department of State). These initial consultations, as well as the consultations indicated in phase 2 and phase 4, will include one meeting (or more as may be necessary) between NOAA representatives and the consulted parties and may also involve written correspondence. The meeting with the consulted parties in phase 1 will be conducted as part of the planning and scoping process, will be initiated by NOAA, will be by invitation, and will usually be held at the beginning of the scoping process. Copies of the issues/options statement will be provided to all parties consulted.

One meeting (or more as may be necessary) will be held between NOAA representatives and fishery constituents (representatives of affected commercial and recreational sectors, environmental or other organizations, and other interested parties) during phase 1 for the purpose of discussing mutual concerns. Such meetings will be initiated by

NOAA, may involve invitations but will be open to the public, and will be announced and scheduled at times and places considering convenience for constituents. Teleconferences could substitute for meetings if acceptable to the constituents. The public hearing(s) held during phase 1 will provide additional opportunity for all affected fishery interests to present their views.

e. Public hearings. NOAA will conduct a public hearing as part of the initial scoping planning phase. Additional scoping hearings may be held if necessary. The focus of the hearing will be the issues/options statement. Public comments will be invited; the hearing will provide all affected fishery constituents an early opportunity to present their views. The hearing date, location, and time will be announced by *Federal Register* notice; fishery participants and other interested parties will be notified directly through appropriate mailings.

2. Phase 2—Preparation of Draft Documents; Consultations

a. General. The objectives of phase 2 include (1) preparing all draft documents required as a basis for taking any regulatory actions under the Magnuson Act and other applicable law concerning a highly migratory species and (2) holding consultations regarding the proposed management measures with the ICCAT Commissioners and Advisory Committee, the Department of State and other affected Federal agencies, and the affected Councils as required by Public Law 101-627.

b. Documents to be prepared. The draft documents that must be prepared as a basis for subsequent rulemaking under the Magnuson Act and other applicable law include the following:

1. Draft FMP or FMP amendment.
2. Draft proposed regulations or regulations summary.
3. Draft National Environmental Policy Act (NEPA) documents (Environmental Assessment (EA); Draft Environmental Impact Statement (DEIS); or Draft Supplemental Environmental Impact Statement (DSEIS))
4. Draft Regulatory Impact Review (DRIR); and Initial Regulatory Flexibility Analysis (IRFA) where required.
5. Draft statement assessing nature and effectiveness of management measures for implementing the ICCAT recommendations.
6. Draft SF83I and supporting statement for approval of information collection requirements under Paperwork Reduction Act.

7. Information consultation or draft Section 7 Consultation under Endangered Species Act.

8. Initial consistency determination under Coastal Zone Management Act.

9. Other documents as may be required.

c. Preparation strategy. NOAA, on behalf of the Secretary, has the responsibility for preparing each draft FMP or amendment and all other draft documents required in support of the FMP or amendment and its approval and implementation through final regulations. The preparation of any FMP, amendment, or other regulatory action for a highly migratory species will be directed and coordinated by the NMFS headquarters Office of Fisheries Conservation and Management. In preparing the draft documents, NOAA will review and consider all comments by consultants, fishery constituents, and members of the public received during Phase 1.

As appropriate, NOAA may prepare the draft FMP or amendment and some or all of the other draft supporting documents through use of an FMP development team similar to that employed by several of the Councils. NOAA will determine on a case-by-case basis whether to use an FMP development team as well as the team's composition and specific responsibilities. FMP development teams will work under the direction of the NMFS Office of Fisheries Conservation and Management. Where appropriate, FMP development teams will be multidisciplinary in character and will utilize scientific or other expertise outside of NOAA or other governmental agencies. The utilization of outside expertise may involve using team members from non-governmental entities or may involve NOAA or the FMP development team consulting with outside scientific and other experts. It is emphasized that regardless of the mechanics of preparing FMPs and amendments, the supporting scientific and regulatory analyses will, at a minimum, be subject to peer review through the public review and comment process. Additionally, NOAA will actively seek the views of appropriate experts on these analyses, giving careful consideration of comments received.

d. Document contents. Draft FMPs or amendments will contain all provisions required by 16 U.S.C. 1853 and 1854 and will comply with all other Magnuson Act requirements.

If recommendations of ICCAT are to be implemented through a new FMP or an amendment, the FMP or amendment and proposed implementing regulations must meet all relevant statutory

requirements of both the ATA and the Magnuson Act.

The environmental, socioeconomic, and regulatory impact analyses undertaken in support of the FMP or amendment and regulations will comply with the requirements of all applicable Federal law and Executive Orders, with 50 CFR Part 602 (Guidelines for Fishery Management Plans), and with the NOAA/NMFS publication "Operational Guidelines—Fishery Management Plan Process" (Operational Guidelines).

The draft FMP or amendment and supporting analyses will examine fully all significant and appropriate fishery issues, propose alternative management measures to address the identified fishery issues or problems, assess the environmental, economic, and social impacts of each alternative measure, and identify the preferred measures if at all possible. Finally, the FMP or amendment will identify research and information priorities, including observer requirements and necessary data collection and analysis, for managing the fishery of concern; new or revised collection of information requirements will be processed under usual agency procedures for compliance with the Paperwork Reduction Act.

Any draft proposed regulations or summary of regulations prepared for an FMP or amendment in phase 2 will represent the preferred management alternative if identified at this point. If regulations contain management measures to be implemented under ATCA authority, they should contain a draft statement assessing the nature and effectiveness of the measures for implementing ICCAT recommendations. It is anticipated that usually only a summary of regulations, as opposed to formal regulatory text, will be prepared in phase 2. Full proposed regulations to implement an FMP or amendment are prepared in phase 4.

e. International management recommendations. Any FMP or amendment and implementing regulations that include fishery management recommendations of the ICCAT, or of another international management entity to which the United States is party, will fulfill all relevant statutory requirements. For example, an amendment to the Fishery Management Plan for Atlantic Swordfish that is intended to implement a recommendation of the ICCAT must meet all relevant requirements of the ATCA as well as the Magnuson Act.

f. Timing. The time required to prepare draft documents is discretionary and will vary substantially depending upon (1) whether a new FMP or an amendment is to be prepared, (2)

whether there are specific recommendations from the ICCAT for new or revised fishery management measures and whether such measures constitute all or part of the FMP or amendment, and (3) the extent and complexity of the fishery management issues to be analyzed and addressed.

g. Consultations and meetings with constituents. At the end of phase 2, NOAA will undertake consultations regarding the contents of all draft documents with the following parties: (1) The United States ICCAT Commissioners and the ICCAT Advisory Committee (and any other commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements to which the U.S. is party); (2) the affected Councils, and (3) the Department of State and other affected Federal agencies.

NOAA will initiate these consultations through a meeting (or more as may be necessary) with all consulted parties to be held after the completion of the draft documents and prior to their release for general public review and comment. Subsequent consultations with these parties, either during the remainder of phase 2 or during the following phase 3, will be on an "as needed" basis and could involve meetings or written correspondence. The meeting with consultants late in phase 2 will be initiated by NOAA, will be by invitation, and will focus on the consultants' views concerning the draft documents. If necessary, draft documents will be revised based upon consultants' comments subsequent to this meeting and prior to public release in phase 3. Copies of all draft documents will be provided in a timely manner to those parties consulted. NOAA will ensure that the views and comments of all consulted parties are recorded and become part of the permanent administrative record.

Pursuant to 16 U.S.C. 91 *et seq.*, the U.S. ICCAT Commissioners may establish "species working groups" for highly migratory species to provide advice and recommendations to the Commissioners and to the Advisory Committee. NOAA will consult throughout the rulemaking process with any such groups as requested by the Commissioners, and will welcome any comments that such groups may provide on draft or final documents.

Each affected Council will be consulted, initially through the early meeting. The affected Councils are encouraged to use an existing inter-council advisory or working species committee for highly migratory species

that, at the request of all Councils concerned, could serve as the focus for NOAA's consultations. Any such intercouncil advisory committee would function in whatever manner the constituent Councils decided; it could serve to expedite NOAA's consultations with the Councils and to help resolve intercouncil differences. It is noted that under the ATCA, 16 U.S.C. 971b, the Chairmen of the New England, Mid-Atlantic, South Atlantic, Caribbean, and Gulf Fishery Management Councils are members of the ICCAT Advisory Committee; this should facilitate good communications between the ICCAT Commissioners (as advised by their Advisory Committee) and the Fishery Management Councils.

One meeting (or more as may be necessary) between NOAA representatives and fishery constituents (representatives of affected commercial and recreational sectors, environmental and other organizations, and other interested parties) will be held during phase 2 for the purpose of discussing mutual concerns. Such meetings will be initiated by NOAA, may involve invitations but will be open to the public, and will be announced and scheduled at times and places considering convenience for constituents. Teleconferences could substitute for meetings if acceptable to the constituents. The public hearings and the public review and comment period on the draft documents during phase 3 will provide extensive and additional opportunity for all affected fishery interests to present their views.

3. Phase 3—First Public Review and Comment Period; Public Hearings; NEPA Review

a. General. After completing preparation of the draft FMP or amendment, draft proposed implementing regulations or regulations summary, and all supporting draft documents, NOAA will provide for public review and comment.

If a draft environmental impact statement (DEIS) or draft supplemental environmental impact statement (DSEIS) was prepared in phase 2 pursuant to requirements of the National Environmental Policy Act (NEPA), the public comment period in phase 3 will fulfill the NEPA's requirements for a minimum of 45 days for public review of and comment on a D(S)EIS.

The public review period will begin as soon as possible after the completion of all necessary draft documents.

b. Notice to the public. NOAA will publish a notice in the Federal Register announcing the availability for review and comment of the draft FMP or

amendment, the D(S)EIS or draft EA, draft proposed regulations or a regulations summary, and all other draft supporting documents (note: proposed regulations are not published in the Federal Register for public review and comment until phase 5). The notice will provide a brief summary of the contents of the FMP or amendment and supporting documents and will indicate what documents are available for comment, where they may be obtained, comment period deadlines, and the names, addresses, and telephone numbers of NMFS personnel who can answer questions regarding the available documents and/or the rulemaking process.

A notice of scheduled public hearings will be published in the Federal Register providing advance notice of dates, times, and places. This notice may be combined with the previously described notice of availability of draft documents.

Copies of the notice(s) of availability and of hearings will be mailed to those parties on the master mailing list as well as to those holding fishing permits in the relevant fishery.

c. Review periods and comments. The phase 3 period for public comment on the draft FMP or amendment and supporting documents will usually be 60 days but may be shorter if this poses a significant conflict with critical management action dates or with a time-urgent need to resolve a fishery problem. Generally, the shortest public comment period on a draft FMP or amendment would be 45 days. NEPA requires that the public review and comment period on a D(S)EIS be at least 45 days and up to 60 days for good cause. The comment periods on the draft FMP or amendment and on the D(S)EIS will run concurrently whenever possible.

As a matter of normal agency practice, NOAA will not respond to or address individual public comments received during phase 3. Any comments received will be considered carefully and evaluated by NOAA in preparing the final FMP or amendment and proposed implementing regulations and will be part of the permanent administrative record. Substantive comments received from the ICCAT Commissioners and Advisory Committee, Councils, industry representatives and constituent groups, and members of the public will be summarized in the final FMP or amendment or in associated documents such as the F(S)EIS.

If a D(S)EIS is prepared for the draft FMP or amendment, a 45-day public review and comment period will be provided as is required by NEPA

regulations issued by the Council on Environmental Quality (CEQ). This period is initiated by a formal filing of the D(S)EIS a Federal Register notice of the availability of the D(S)EIS for public review and comment. If an Environmental Assessment (EA) or Categorical Exclusion is prepared for the draft FMP or amendment, NOAA also will provide at least 45 days for public review and comment. NEPA regulations also require that an agency preparing a final EIS or final SEIS (F(S)EIS) to assess and consider comments both individually and collectively received on the D(S)EIS, to respond to such comments by one of several means, and to provide a summary of the comments and responses in the F(S)EIS.

d. Public hearings. Public hearings will be held on the draft FMP or amendment, draft proposed regulations or regulations summary, D(S)EIS, and all other draft supporting documents. Hearings will be conducted at appropriate times and in appropriate locations in the geographical areas concerned so as to allow all interested persons to be heard. The hearings will be held during the 45-day to 60-day public comment period. A NOAA official will preside over these hearings and receive the public testimony which will be recorded and become part of the administrative record.

4 Phase 4—Preparation of Draft Final Documents and Proposed Regulations; Consultations and Meetings with Constituents

a. General. The objectives of Phase 4 are to: (1) Consider and evaluate all comments received during the public review and comment period of Phase 3; (2) determine what changes are required in all documents; (3) make such changes in preparing "draft final" documents, indicating what changes have been made and why; (4) prepare a summary of the public comments received during phase 3 and incorporate appropriately into the draft final documents; (5) prepare or revise proposed regulations for implementing the FMP or amendment that accurately reflect the contents of the draft final FMP or amendment and other draft final documents and that meet all regulatory requirements necessary for publication in the Federal Register; and (6) provide for an additional series of consultations with the ICCAT Commissioners, the ICCAT Advisory Committee, the Department of State and other affected Federal agencies, and affected Councils if regulations are to be implemented under ATCA authority.

b. *Documents to be prepared.* The draft final documents prepared in phase 4 may include the following:

1. Final FMP or FMP amendment.
2. Proposed regulations.
3. Final NEPA documents (Final EA, Final Environmental Impact Statement (FEIS), or Final Supplemental Environmental Impact Statement (FSEIS)).
4. Initial Regulatory Impact Review; Initial Regulatory Flexibility Analysis.
5. Statement assessing nature and effectiveness of management measures for implementing the ICCAT recommendations.
6. Final SF831 and supporting statement for OMB approval of collection-of-information requirements under the Paperwork Reduction Act.
7. Federalism Assessment under E.O. 12612, as appropriate.
8. Consistency determinations under Coastal Zone Management Act (Letters from NOAA to appropriate States and responses from any States).
9. Informal consultation or formal Section 7 Consultation under the Endangered Species Act.
10. Others as required.

c. *Preparation strategy.* NOAA will prepare draft final documents based upon a review and evaluation of all comments received during phases 2 and 3. If an FMP development team prepared the initial draft FMP or amendment and other draft documents, it may or may not be directed to prepare the draft final documents.

d. *Document contents.* Draft final documents will meet all appropriate standards for approval and implementation. The general requirements for final FMP-related or amendment-related documents are provided in the NMFS Operational Guidelines-Fishery Management Plan Process and under 50 CFR part 602 (Guidelines for Fishery Management). The draft final documents will contain summaries, as appropriate, of public comments received during Phase 3 and will indicate changes that NOAA decided to make based on public comments. All significant changes in the fishery management measures made during phase 4 will be evaluated in terms of environmental, economic, and sociological impacts.

e. *Timing.* The time needed to prepare the draft final documents is discretionary and will vary depending upon the extent and nature of the comments received during phase 3. Substantial revisions may require considerable time.

f. *Consultations and meetings with constituents.* If management measures and regulations are being proposed

under authority of the ATCA, NOAA will undertake consultations at the end of phase 4 on the draft final FMP or amendment and proposed implementing regulations with the following parties: (1) The U.S. ICCAT Commissioners and the ICCAT Advisory Committee; (2) the affected Councils; and (3) the Department of State and other affected Federal agencies.

NOAA will initiate these consultations through a meeting (or more as may be necessary) with all consulted parties to be held after the completion of the draft final documents and proposed regulations and prior to the publication of the proposed regulations and the beginning of the general public review and comment period of phase 5. Consultations with these parties subsequent to this meeting, either during the remainder of phase 4 or during the following phase 5, will be on an "as needed" basis and could involve meetings or written correspondence. The meeting with consultants late in phase 4 will be initiated by NOAA, will be by invitation, and will focus on the consultants' views concerning the draft final documents and proposed regulations. If necessary, the draft final documents or proposed regulations will be revised based upon consultants' comments subsequent to this meeting and prior to public release in phase 5. Copies of all draft final documents and the proposed regulations will be provided in a timely manner to all parties consulted. NOAA will ensure that the views and comments of all consulted parties are recorded and become part of the permanent administrative record.

One meeting (or more as may be necessary) between NOAA representatives and fishery constituents (representatives of affected commercial and recreational sectors, environmental or other organizations, and other interested parties) will be held during phase 4 for the purpose of discussing mutual concerns. Such meetings will be initiated by NOAA, may involve invitations but will be open to the public, and will be announced and scheduled at times and places considering convenience for constituents. Teleconferences could substitute for meetings if acceptable to the constituents. The public review and comment period as well as public hearings, if held, on the draft final documents and proposed regulations during phase 5 will provide extensive and additional opportunity for all affected fishery interests to present their views.

5. Phase 5—Second Public Review and Comment Period; Publish Proposed Regulations; Public Hearings

a. *General.* The objectives of phase 5 are (1) to provide a second period for public review and comment after preparing the draft final FMP or amendment and other draft final documents and after publishing the proposed regulations, and (2) to conduct additional public hearings if appropriate. Phase 5 will involve making the draft final documents available for public review and comment as well as the publication of proposed regulations in the *Federal Register* for concurrent public review and comment. Phase 5 will include public hearings only if regulations are to be promulgated under authority of the ATCA.

The draft final documents will contain NOAA's preferred final management measures and as well as the requisite final analyses of regulatory and environmental impacts. The final FMP or amendment and implementing final regulations prepared in Phase 6 may contain changes as a result of the public comments received in phase 5 (see phase 6).

b. *Notice to the public and proposed regulations.* NOAA will publish in the *Federal Register* the following items: (1) Notice of availability of the draft final FMP or amendment and other draft final supporting documents for public review and comment, (2) notice of any scheduled public hearings, and (3) proposed regulations to implement the FMP or amendment. The published proposed regulations will provide necessary information regarding comment deadlines.

NOAA is required to obtain clearance by the Department of Commerce (Department) and by the Office of Management and Budget (OMB) for publishing proposed rules in the *Federal Register* for public review and comment. These clearances may require considerable time depending upon the complexity of the regulations and upon whether they contain a new or revised collection-of-information requirement under the Paperwork Reduction Act.

c. *Review periods and comments.* The phase 5 period for public comment on the draft final FMP or amendment and supporting documents will usually be 60 days but may be shorter if necessary to resolve a time-urgent fishery problem; generally, the shortest public comment period would be 45 days. The comment period on the proposed regulations will be 60 days if practicable; otherwise, it will be 45 days unless changed for good cause. The comment period on the FMP

or amendment and on the proposed rule will run concurrently whenever possible.

If the FMP or amendment and proposed implementing regulations include management measures designed to implement recommendations of the ICCAT under ATCA authority, or where the proposed regulations are to be promulgated under only ATCA authority for a fishery not yet managed under an FMP, the public review and comment period in phase 5 will fulfill the notice and comment requirements of section 971d. of the ATCA.

Comments received during phase 5 will be considered by NOAA to determine the need for further changes in the FMP or amendment or other supporting documents and will become part of the permanent administrative record. Consistent with the Administrative Procedure Act (APA), 5 U.S.C. section 553, public comments will be summarized and addressed within the preamble of the final regulations implementing the FMP or amendment and promulgated in Phase 7.

d. Public hearings. Public hearings will be held during phase 5 only when the proposed FMP or amendment implements measures recommended by ICCAT and/or where final implementing regulations must be promulgated under ATCA authority. As in phase 3, hearings will be conducted at appropriate times and places in the geographical areas concerned to allow all interested persons to be heard. A NOAA official will preside over any hearings in phase 5 and will receive the public comments which will be recorded and become part of the administrative record.

6. Phase 6—Preparation of Final Documents and Final Regulations

a. General. NOAA will prepare the final FMP or amendment, the final implementing regulations, and all final supporting documents in form for approval and implementation. The objectives of phase 6 are to: (1) Consider and evaluate all comments received during phase 5; (2) determine what final changes are necessary in all documents and make such changes; (3) prepare the final regulations; and (4) complete all final agency requirements of documentation and regulatory procedure as a basis for (a) approval of the FMP or amendment by the NOAA Assistant Administrator for Fisheries (Assistant Administrator), (b) clearance of the final regulations by the Department and OMB for promulgation, and (c) implementation of the FMP or amendment through promulgation of final regulations.

The documents to be prepared during phase 6 include all those listed under phase 4 but in final form. The final regulations will contain a summary of and responses to the public comments on the proposed regulations received during phase 5 as required by the APA. The F(S)EIS will also contain a summary of and responses to public comments on the D(E)IS.

NOAA will not conduct *ex parte* communications with members of the public, industry representatives, constituent organizations, or other private parties during phase 6 except to provide status information. Furthermore, NOAA will not make public its decisions regarding the contents of a final FMP, final FMP amendment, and final implementing regulations until approval by the Assistant Administrator and filing with the Office of the Federal Register.

7. Phase 7—Approval and Implementation

a. General. The objectives of phase 7 include agency approval of the final FMP or amendment and implementation by final and effective regulations.

b. Approval procedures and timing. Approval of the final FMP or amendment and implementing final regulations by the Assistant Administrator, as well as clearance of the final regulations by the Department and OMB for promulgation and publication in the Federal Register, will follow normal NOAA and Departmental procedures. As delegated by the Secretary, the Assistant Administrator will issue FMPs or amendments for highly migratory species in the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea. The time required for issuing an FMP or amendment is discretionary with the Assistant Administrator, unless the action is to implement an ICCAT recommendation with a specific deadline, and will vary depending upon the complexity of the action.

Final regulations will become effective 30 days after filing with the Office of the Federal Register as provided by the APA; an earlier effective date is possible if the Assistant Administrator finds good cause.

Any F(S)EIS prepared for an FMP or amendment will be filed with the EPA prior to the Assistant Administrator's issuance of such FMP or amendment. As required by the CEQ regulations implementing NEPA, no final agency decision (here the issuance of an FMP, amendment, or a final rule where no FMP is involved) should be made until the later of either 90 days after publication of the notice of availability of the D(S)EIS or 30 days after

publication of the notice of availability of the F(S)EIS. The time of filing will be chosen so as to allow the 30-day NEPA "cooling off" period to transpire prior to the final agency decision.

8. Phase 8—Continuing and Contingency Fishery Management

a. General. Once an FMP for a highly migratory species has been approved and implemented by final regulations, there will be a continuing need for monitoring the fishery and the effectiveness of the FMP and undertaking necessary FMP adjustments. Such adjustments will respond to changing fishery or resource conditions and, for certain fisheries, respond to international management actions and recommendations. These actions collectively comprise the "continuing fishery management phase."

It is anticipated that many of these FMP changes will be made through framework regulatory adjustment measures incorporated in each FMP; accordingly, it should not be necessary to repeat the full FMP amendment process outlined in this notice each time a change in the regulations is required. As examples, annual changes in quotas based upon the latest stock assessment or the latest ICCAT recommendations and inseason regulatory adjustments could be made through properly constructed framework measures (see discussion below).

Management adjustments will be based upon the latest and best available scientific information concerning the stock and fishery. Under 50 CFR 602.12, NOAA has the responsibility to assure that an annual Stock Assessment and Fishery Evaluation (SAFE) report is prepared, reviewed annually, and changed as necessary, for each FMP. The SAFE report will summarize the most recent biological conditions of the managed species as well as the social and economic conditions of the recreational and commercial fishing sectors and fish processing industries. The SAFE report will also provide a basis for determining annual harvest levels, documenting significant trends or changes in the resource and fishery over time, and assessing the effectiveness of the management program and identifying required management adjustments.

Other management adjustments will derive from recommended international fishery management measures. If ICCAT recommends new fishery management measures or changes in existing measures for a fishery managed under an implemented FMP, NOAA will consider such recommendations and, if

consistent with the requirements of both the Magnuson Act and the ATCA, incorporate them in the FMP and implementing regulations. It is anticipated that the regulatory framework mechanism in each FMP will provide the authority for most such periodic changes in management measures.

b. Framework management measures. To the extent possible, MNFS/NOAA intends to include within each FMP for a highly migratory species framework regulatory adjustment procedures that facilitate making annual and inseason management measure changes under conditions requiring "real time" regulatory responses. The framework procedures will allow adjustments to the management measures within the scope and criteria established by the FMP and in a more expeditious manner than through the full FMP amendment process. Framework measures will be particularly useful where annual ICCAT recommendations for a fishery must be implemented within tight time constraints.

It is anticipated that an FMP with framework measures may initially take longer to prepare since it must: (1) Anticipate and describe situations expected to occur; (2) establish criteria, procedures, and limits for regulatory actions; (3) allow for public comment on the range of potential actions, if identifiable, and on the degree of regulatory discretion held by the Secretary; and (4) provide documentation to support the framework under other applicable law. It is noted that framework measures will not avoid meeting statutory requirements of the Magnuson Act, other applicable law, and executive orders. These requirements include full analyses of expected regulatory and environmental effects and opportunity for public review and comment.

c. Contingency fishery management—emergency actions. Pursuant to 16 U.S.C. 1855(c), the Secretary may promulgate emergency regulations to address an emergency existing in any fishery without regard to whether an FMP exists for the fishery. Emergency regulations that change any existing FMP or amendment shall be treated as an amendment to such FMP (or amendment) for the emergency period. The Secretary can implement emergency regulations for a highly migratory species for up to 1870 consecutive days from the date of publication of the emergency rule in the Federal Register. Prior to promulgating emergency regulations for highly migratory species, the Secretary will consult with the

interested Councils, the ICCAT Commissioners and Advisory Committee, the Department of State, and other affected parties.

D. Regulations Implementing ICCAT Recommendations without an FMP

1. General

The ATCA authorizes the Secretary to promulgate regulations as may be necessary and appropriate to carry out ICCAT's recommendations under 16 U.S.C. 971d(c) upon favorable action by the Secretary of State under 16 U.S.C. 971c(a). Section 971d(c) requires the Secretary to publish a general notice of proposed rulemaking in the Federal Register and afford interested persons an opportunity to participate in rulemaking through submission of written data, views, or arguments and through oral presentation at one of more public hearings.

The process for preparing and amending FMPs for highly migratory species described in this notice incorporates these ATCA requirement so that they are met whenever the United States acts to implement ICCAT recommendations through the FMP and its implementing regulations. However, in the event that the Secretary must implement ICCAT recommendations when no FMP has been prepared or will be prepared in sufficient time, a summary of ATCA requirements for implementing such ICCAT recommendations is provided below. Refer to the NOAA Action Plan (previously discussed) for procedures and actions involved in U.S. preparations for ICCAT meetings.

2. Requirements for Regulations to Carry out the ICCAT Recommendations

The following actions are required by the ATCA for U.S. implementation, through final regulations, of recommendations of the ICCAT for the conservation and management of highly migratory species:

a. The Secretary will inform the Secretary of State regarding actions she considers appropriate for the United States with regard to fishery management recommendations received from the ICCAT within 5 months of ICCAT's notification of the United States of its recommendations. Additional time frames apply for informing the Secretary of State where objections have been presented by any ICCAT members;

b. The Secretary will publish in the Federal Register a proposed rule to implement the recommendations of the ICCAT and will provide for a period for public review and written comment and

for one or more public hearings. The proposed regulations shall contain (a) a statement of the considerations involved in issuing the regulations, and (b) a statement assessing the nature and effectiveness of the measures for implementing the recommendations of the ICCAT that are being or will be carried out by other countries whose vessels fish for the subject species in the Atlantic Tunas Convention Area; and

c. The Secretary will consider public comments, revise the regulations as necessary, and publish final regulations in the Federal Register. These regulations will be applicable to all vessels and individuals subject to U.S. jurisdiction on the date prescribed by the Secretary. The preamble of the final regulations will summarize and respond to public comments. The final regulations generally will become effective 30 days after the date of filing with the Office of the Federal Register.

Dated: May 21, 1992.

Samuel W. McKeen,

Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.

Figure 1: Process for Development and Implementation of FMPs/FMP Amendments for Atlantic Highly Migratory Species

Phase 1—Planning and Scoping

Actions:

• Consultations: Meet with ICCAT Commissioners and Advisory Committee, affected Fishery Management Councils, and Department of State and other Federal agencies.

• Prepare issues/options statement.

• FR notice of intent to prepare FMP/FMP amendment and implement thru final regulations; availability of issues/options statement.

• FR notice of any public hearings and meetings.

• Meet with affected fishery interests.

• Conduct public hearing(s).

• Timing: Discretionary.

Phase 2—Preparation of Draft Documents; Consultations

Actions:

• Review and consider public and consultants' comments.

• Prepare the following:

- Draft FMP/FMP amendment;
- Draft proposed regulations or regulations summary;
- Draft NEPA documents (EA or D(S)EIS);

• Draft RIR, including Initial RFA;

• Draft statement assessing effectiveness of management measures for implementing ICCAT recommendations;

- Draft SF83I and supporting statement for record-keeping or reporting requirements;
- Informal consultation or draft Section 7 consultation under ESA;
- Initial consistency determination under CZMA; and
- Other relevant documents.

Consultations: Meet with ICCAT Commissioners and Advisory Committee, affected Councils, and Department of State and Federal agencies.

Meet with affected fishery interests.
Timing: Discretionary.

Phase 3—First Public Review and Comment Period

Actions:

FR notice of availability of draft FMP/FMP amendment, D(S)EIS, draft proposed regulations or regs summary, and other draft documents.

FR notice of scheduled public hearings and meetings.

Public review and comment period (includes 45-day NEPA review of D(S)EIS).

Conduct public hearings.

Timing: Public review and comment period=60 days with necessary exceptions.

Phase 4—Preparation of Draft Final Documents and Proposed Regulations; Consultations

Actions:

Review and consider public and consultants' comments.

Prepare draft final FMP/FMP amendment and all supporting draft final documents.

Consultations: Meet the ICCAT Commissioners and Advisory Committee, affected Councils, and Department of State and other Federal agencies if under ATCA authority.

Meet with affected fishery interests.
Timing: Discretionary.

Phase 5—Second Public Review and Comment Period; Publish Proposed Regulations

Actions:

FR notice of availability of draft final FMP/FMP amendment and other supporting draft documents.

FR notice of scheduled public hearings and meetings, if appropriate.

DOC and OMB clear proposed regulations for publication.

Publish proposed regulations in FR.

Public review and comment period.

Conduct public hearing(s) if under ATCA authority.

Timing: Public review and comment period=60 days with necessary exceptions.

Phase 6—Preparation of Final Documents

Actions:

Review and consider public and consultants' comments.

Prepare final FMP/FMP amendment, final regulations, F(S)EIS, and other final documents.

Timing: Discretionary.

Phase 7—FMP/FMP Amendment Approval and Implementation

Actions:

F(S)EIS filed with EPA.

Assistant Administrator approves final FMP/FMP amendment and final regulations.

DOC and OMB clear final regulations.

Final regulations promulgated.

Timing: Final regulations effective 30 days after filing with the Office of Federal Register.

[FR Doc. 92-12484 Filed 5-28-92; 8:45 am]

BILLING CODE 3510-22-M

Travel and Tourism Administration

Travel and Tourism Advisory Board; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976) notice is hereby given that the Travel and Tourism Advisory Board of the U.S. Department of Commerce will meet on June 18, 1992, at 12:30 p.m. at the Sheraton Brussels Hotel and Towers, Place Rogier 3, B-1210 Brussels, Belgium, in the Duc de Bourgogne Room in the Les Comtes des Flandre.

Established March 19, 1982, the Travel and Tourism Advisory Board consists of 15 members, representing the major segments of the travel and tourism industry and state tourism interests, and includes one member of a travel labor organization, a consumer advocate, an academician and a financial expert.

Members advise the Secretary of Commerce on matters pertinent to the Department's responsibilities to accomplish the purpose of the National Tourism Policy Act (Pub. L. 97-63), and provide guidance to the Assistant Secretary for Tourism Marketing in the preparation of annual marketing plans. Agenda items are as follows:

- I. Call to Order
- II. Roll Call
- III. Old Business
- IV. New Business
- V. ISAC 13 Review
- VI. World Travel and Tourism Council Update
- VII. European Commission Council
- IX. European Commission Parliament
- X. Miscellaneous

XI. Adjournment

A very limited number of seats will be available to observers from the public and the press. To assure adequate seating, individuals intending to attend should notify the Committee Control Officer in advance. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements is allowed.

Karen M. Cardran, Committee Control Officer, United States Travel and Tourism Administration, room 1860, U.S. Department of Commerce, Washington, DC 20230 (telephone: 202-377-1904) will respond to public requests for information about the meeting.

John G. Keller, Jr.,

Under Secretary of Commerce for Travel and Tourism.

[FR Doc. 92-12550 Filed 5-28-92; 8:45 am]

BILLING CODE 3510-11-M

COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts' next meeting is scheduled for 18 June 1992 at 10 a.m. in the Commission's offices in the Pension building, Suite 312, Judiciary Square, 441 F Street, NW., Washington, DC 20001 to discuss various projects affecting the appearance of Washington, DC, including buildings, memorials, parks, etc.; also matters of design referred by other agencies of the government.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call the above number.

Dated in Washington, DC 21 May 1992.

Charles H. Atherton,

Secretary.

[FR Doc. 92-12576 Filed 5-28-92; 8:45 am]

BILLING CODE 6330-01-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement Lists; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to the Procurement List commodities and services to be furnished by nonprofit

agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: June 29, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: On March 6, April 3, 10 and 17, 1992, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (57 FR 8115, 11468, 12480 and 13715) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to produce the commodities and provide the services at a fair market price and impact of the addition on the current or most recent contractors, the Committee has determined that the commodities and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirement for small entities other than the small organizations that will furnish the commodities or services to the Government.

2. The action will not have a severe economic impact on current contractors for the commodities or services.

3. The action will result in authorizing small entities to furnish the commodities or services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodities or services proposed for addition to the Procurement List.

Accordingly, the following commodities and services are hereby added to the Procurement List:

Commodities

Towbar Pin Assembly

5120-00-NHS-0001

51200-00-NHS-0002

(Requirements of the Watervliet Arsenal, New York)

Table, Folding Legs, Field

7105-00-289-9275

(Remaining 50% of the Government's requirement)

Services

Grounds Maintenance

Food and Drug Administration

Animal Research Facility (MOD I)

8301 Muirkirk Road

Laurel, Maryland

Janitorial/Custodial

Old Post Office Building

Washington, DC

Janitorial/Custodial

U.S. Post Office and Courthouse

301 West Monroe Street

Jacksonville, Florida

Janitorial/Custodial

U.S. Nuclear Regulatory Commission

Warehouse

5000-5010 Boiling Brook Parkway

Rockville, Maryland

This action does not affect contracts awarded prior to the effective date of this addition or options exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 92-12603 Filed 5-28-92; 8:45 am]

BILLING CODE 6820-33-M

Procurement List; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List a commodity and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 29, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodity and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The

major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodity and service to the Government.

2. The action will result in authorizing small entities to furnish the commodity and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodity and service proposed for addition to the Procurement List.

Comments on this certification are invited. Comments should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodity and service to the Procurement List:

Commodity

Pallet, wood

3990-00-NSH-0009

(Requirements for the Naval Supply Center, Pensacola, Florida)

Nonprofit Agency: West Alabama Easter Seal Rehabilitation Center, Tuscaloosa, Alabama

Service

Janitorial/Custodial

Federal Building, U.S. Post Office & Courthouse,

Council Bluffs, Iowa

Nonprofit Agency: Vocational Development Center, Inc., Council Bluffs, Iowa

Beverly L. Milkman,

Executive Director.

[FR Doc. 92-12604 Filed 5-28-92; 8:45 am]

BILLING CODE 6820-33-M

Procurement List Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities

COMMENTS MUST BE RECEIVED ON OR BEFORE: June 29, 1992.

ADDRESSES: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 3, suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-1.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and service to the Government.

2. The action does not appear to have a severe economic impact on current contractors for the commodities and service.

3. The action will result in authorizing small entities to furnish the commodities and service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Warner-O'Day Act (41 U.S.C. 46-48c) in connection with the commodities and service proposed for addition to the Procurement List.#

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

It is proposed to add the following commodities and service to the Procurement List:

Commodities

Bandage, Gauze
6510-00-582-7992

Nonprofit Agency: Elwyn, Inc., Elwyn, Pennsylvania

Bandage, Gauze
6510-00-582-7992

(50% of the Government's requirement)
Nonprofit Agency: Elwyn, Inc., Elwyn, Pennsylvania

Service

Janitorial/Custodial

National Archives and Records Center
3150 Springboro Road

Dayton, Ohio

Nonprofit Agency: Eastway Corporation,
Dayton, Ohio

Beverly L. Milkman,

Executive Director.

[FR Doc. 92-12605 Filed 5-28-92; 8:45 am]

BILLING CODE 6820-33-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Proposed Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures option contract.

SUMMARY: The Chicago Board of Trade (CBT or Exchange) has applied for designation as a contract market in options on Canadian government bond futures. The Director of the Division of Economic Analysis (Division) of the Commission acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before June 29, 1992.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW, Washington, DC 20581. Reference should be made to the options on Canadian government bond futures contract.

FOR FURTHER INFORMATION CONTACT: Please contact Stephen Sherrod of the Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW, Washington, DC 20581, telephone 202-254-7303.

SUPPLEMENTARY INFORMATION: Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254-6314.

Other materials submitted by the exchange in support of the application for contract market designation may be

available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the terms and conditions, or with respect to other materials submitted by the exchange in support of the application, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581 by the specified date.

Issued in Washington, DC, on May 26, 1992.

Gerald D. Gay,

Director.

[FR Doc. 92-12589 Filed 5-28-92; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 1974; Amend a System of Records

AGENCY: Office of the Secretary, DOD.

ACTION: Amend a system of records.

SUMMARY: The Office of the Secretary of Defense, Office of the Joint Staff, proposes to amend a system of records previously published under the system name of USSOUTHCOM Counternarcotics Database. The U.S. SOUTHERN COMMAND established this system of records as the lead DOD agency responsible for detection and monitoring aerial and maritime transit of illegal drugs into the U.S., as required by the FY89 National Defense Authorization Act, Pub. L. 100-456, title XI, Interdiction and Law Enforcement Support. As the initial effort has progressed, the administrative desirability of managing this system at Joint Staff Headquarters by the Counternarcotics C4 Division, J-6F, located in the Pentagon, has become evident.

DATES: The proposed amendment will be effective without further notice on June 29, 1992, unless comments are received that would result in a contrary determination.

ADDRESSES: OSD Privacy Act Officer, OSD Records Management and Privacy

Act Branch, Room 5C315, Pentagon, Washington, DC 20301-1155.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Cragg at (703) 695-0970.

SUPPLEMENTARY INFORMATION: The Office of the Joint Staff record system notices subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the *Federal Register* as follows:

50 FR 22090, May 29, 1985 (DOD Compilation, changes follow)

51 FR 23573, Jun. 30, 1986

55 FR 53177, Dec. 27, 1990

The amended system is not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which requires the submission of an altered system report. The specific changes to the system of records being amended are set forth below, followed by the system of records notices published in its entirety.

Dated: May 22, 1992.

L. M. Bynum,

Alternate OSD Federal Register Liaison Office, Department of Defense.

JS006.CND

SYSTEM NAME:

USSOUTHCOM Counter Narcotics Database (55 FR 53177, Dec 27, 1990).

CHANGES:

SYSTEM NAME:

Delete entry and replace with "Department of Defense Counternarcotics C4I System."

SYSTEM LOCATION:

Delete entry and replace with "Joint Staff, Chief, Counternarcotics C4 Division, ATTN: J-6F, Room 1D825, The Pentagon, Washington, DC 20318-6000."

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete "any other identifier information," from the third and fourth lines and replace with "(e.g., photographic)."

PURPOSE(S):

Delete "To establish a counter narcotics computer database" from the first and second lines of the first paragraph and replace with "To manage a counternarcotics computer system".

Delete the second paragraph and replace with "To carry out the DOD mission of detecting and monitoring the

production, trafficking, and use of illegal drugs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In the third paragraph after "El Paso Intelligence Center" add "Operation Bahamas and Turks and Calicos (OPBAT); and Forward Locations (FLOCs)".

SYSTEM MANAGER:

Delete entry and replace with "Joint Staff, Chief, Counternarcotics C4I Division, ATTN: J-6F, Room 1D825, The Pentagon, Washington, DC 20318-6000. Telephone (703) 614-0175."

RECORD SOURCE CATEGORIES:

Add "INTERPOL-U.S. National Central Bureau; Operation Bahamas and Turks and Calicos (OPBAT); and Department of State Forward Locations (FLOCs)" to the end of the entry.

JS006.CND

SYSTEM NAME:

Department of Defense Counternarcotics C4I System.

SYSTEM LOCATION:

Joint Staff, Chief, Counternarcotics C4 Division, ATTN: J-6F, Room 1D825, The Pentagon, Washington, DC 20318-6000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons suspected of involvement in international narcotics trafficking, as determined by Federal law enforcement agencies (e.g., Bureau of Alcohol, Tobacco and Firearms; Coast Guard; Customs; Drug Enforcement Administration; Defense; Federal Aviation Administration; Federal Bureau of Investigation; Immigration and Naturalization Service; Internal Revenue Service; Department of Justice; Secret Service; State; U.S. Marshals; and El Paso Intelligence Center (EPIC), a multi-agency tactical intelligence processing and analysis facility.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Information consisting of name, Social Security number (if applicable), date of birth, current or previous address, any other identifier information (e.g., photographic), and investigative information supporting known or suspected narcotics trafficking activity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

FY 1989 National Defense

Authorization Act, Pub. L. 100-456; National Drug Control Strategy, January 1, 1990; Secretary of Defense letter, January 6, 1989, SUBJECT: Policy Guidelines for Implementation of FY 1989 Congressionally Mandated DOD Counterdrug Responsibilities; and Executive Order 9397.

PURPOSE(S):

To manage a counternarcotics computer system to support DOD Components and Federal law enforcement agencies in identifying and apprehending persons involved in international trafficking of illegal drugs.

To carry out the DOD mission of detecting and monitoring the production, trafficking, and use of illegal drugs.

The Federal agencies identified will exchange investigative information contained in this system to carry out the counternarcotics mission.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To law enforcement components of the Department of Justice (Federal Bureau of Investigation, Immigration and Naturalization Service/Border Patrol, Drug Enforcement Administration, (U.S. Marshals Service)); Department of Treasury (U.S. Customs Service, Bureau of Alcohol, Tobacco, and Firearms); and Department of Transportation (U.S. Coast Guard) for investigation and apprehension of drug traffickers, smugglers, or others aiding activities of the illegal narcotics trade.

To law enforcement and drug interdiction task force units of the U.S. Attorneys Office, Office of Justice Programs, Criminal Division, INTERPOL-U.S. National Central Bureau, Internal Revenue Service, U.S. Secret Service, Financial Crime Enforcement Network, Department of State (Bureau of International Narcotics Matters), Federal Aviation Administration, for investigation of suspected narcotics trafficking activities.

To the El Paso Intelligence Center; Operation Bahamas and Turks and Calicos (OPBAT); and Forward Locations (FLOCs) for processing and analysis of suspected trafficking activities.

The "Blanket Routine Uses" published at the beginning of the Joint Staff compilation of record system notices also apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All files are stored on electronic, magnetic or laser media in a secure computer facility.

RETRIEVABILITY:

Computer files are retrieved by name or Social Security Number or any other identifying information.

SAFEGUARDS:

Access to the computer by authorized personnel is controlled by a log in and password control system. In addition, all terminals capable of accessing the system are located in secure areas and are restricted to individuals with access privileges and a valid need-to-know.

RETENTION AND DISPOSAL:

Storage media constituting the main data file are retained for ten years, after which they are erased and overwritten.

SYSTEM MANAGER(S) AND ADDRESS:

Joint Staff, Chief, Counternarcotics C4 Division, ATTN: J-6F, Room 1D825, Pentagon, Washington, DC 20318-6000. Telephone (703) 614-0175.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records may contain information about themselves should address written inquiries to the Joint Staff, Chief, Counternarcotics C4 Division, ATTN: J-6F, Room 1D825, Pentagon, Washington, DC 20318-6000.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Joint Staff, Chief, Counternarcotics C4 Division, ATTN: J-6F, Room 1D825, Pentagon, Washington, DC 20318-6000.

CONTESTING RECORD PROCEDURES:

The Office of the Joint Staff rules for accessing records and for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction No. 81, "OSD Privacy Program"; 32 CFR part 311; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Department of Justice (Federal Bureau of Investigation, Immigration and Naturalization Service/Border Patrol, U.S. Attorney Office, Drug Enforcement Administration, (U.S. Marshals Service); Office of Justice Programs, Criminal Division, INTERPOL-U.S. National Central Bureau); Department of

Treasury (U.S. Customs Service, Bureau of Alcohol, Tobacco, and Firearms); Internal Revenue Service, U.S. Secret Service, Financial Crime Enforcement Network; Department of State (Bureau of International Narcotics Matters); Department of Transportation (U.S. Coast Guard, Federal Aviation Administration); Department of Defense; El Paso Intelligence Center; Operation Bahamas and Turks and Calicos (OPBAT); and Department of State Forward Locations (FLOCs).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Parts of this system may be exempt under 5 U.S.C. 552a(j)(2) as applicable. Intelligence and investigation portions of this system may be partially or totally subject to the general exemption.

An exemption rule for this record system has been promulgated according to the requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 311. For additional information contact the system manager.

[FR Doc 92-12379 Filed 05-28-92; 8:45 am]

BILLING CODE 3810-01-F

Department of the Air Force

Intent To Prepare an EIS for the High Frequency Active Auroral Research Program (HAARP)

As part of the High Frequency Active Auroral Research Program (HAARP), the Department of the Air Force will prepare an Environmental Impact Statement (EIS) for proposed construction and operation of an ionospheric research instrument (IRI) in Gulkana, Alaska.

The EIS will present the results of a screening of alternative sites and will examine environmental impacts of alternative designs as well as the no-action alternative.

HAARP is a joint Air Force and Navy program to conduct pioneering experiments on the ionosphere; the earth's atmosphere 60 to 1000 kilometers in altitude. The data obtained would be used to study basic ionospheric processes and to assess the potential for enhancing the use of the ionosphere by command, control, and communication operations for Department of Defense purposes. To meet this objective, the HAARP facility would utilize high power, high frequency transmissions and a variety of associated diagnostic equipment to study naturally occurring and artificially induced ionospheric processes that affect the propagation of radiowaves. Investigations are expected to provide significant advancements in our knowledge of the ionosphere and in

the potential for application to communications and surveillance systems.

The facilities would require about 600 acres of nearly flat terrain. Of this, 300 acres would be used for transmitter antenna arrays 50 to 100 in height and various smaller diagnostic antennas. The other 300 acres would include support and operations buildings and possibly a power plant. Both commercial and on-site power are being considered. HAARP would transmit radio frequency power in the 2 to 15 megahertz range toward the vertical or near vertical direction. As a research program, operations would not be continuous, rather campaigns of perhaps 20 to 40 days duration are contemplated. The number of campaigns in any given year would depend upon research objectives at that time. The HAARP is planned for a lifetime of about 20 years.

Issues or concerns to be addressed in the EIS focus on, but are not limited to, land and minerals, vegetation, wildlife, hydrology, and water quality, air quality, socioeconomic, cultural resources, subsistence, recreation, aesthetics, electromagnetic environment, and the ionosphere. Most of these issues have been identified in documents for previous Air Force projects in the region. Additional issues identified during the scoping process will also be addressed in the EIS.

Public scoping meeting(s) are tentatively scheduled for July, 1992. Notice of the exact time and place of the meeting(s) will be published in the new media.

Public input and comments are solicited concerning the environmental impacts of the proposed program. To assure the program office will have sufficient time to fully consider public inputs on issues, written comments should be sent to ensure receipt no later than July 17, 1992. Interested persons who wish to comment or seek more information on the proposed action and EIS should contact Mr. John Rasmussen, PL/GPIS, Phillips Laboratory, Hanscom AFB, MA 01731-5000.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 92-12580 Filed 5-28-92; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Notice of Intent

AGENCY: U.S. Army Corps of Engineers, Savannah District, DoD.

ACTION: Notice of intent to prepare a draft environmental impact statement

(DEIS) for the proposed Glynn County Beaches Storm Damage Reduction Project in Glynn County, Georgia.

SUMMARY: The proposed action is providing storm protection to the existing shorefront development on Jekyll, St. Simons, and Sea Islands, which are islands located in Glynn County, Georgia. The East Beach (Goulds Inlet) portion of St. Simons Island is also included in the project area. A variety of alternatives, including the No Action alternative, will be considered. Beach nourishment, upgrading of existing revetments, and relocation of existing structures are among the alternatives being considered. The construction of offshore breakwaters has also been proposed for St. Simons Island. The project would extend over a 50-year time period.

FOR FURTHER INFORMATION CONTACT: Mr. William Bailey, Project Manager, U.S. Army Corps of Engineers, Planning Division, P.O. Box 889, Savannah, Georgia 31402-0889, PH: 912-652-5784.

SUPPLEMENTARY INFORMATION:

Authority: The Glynn County Beaches Study was authorized by a resolution passed by the U.S. House of Representatives, Committee on Public Works and Transportation, as published in House Document 533, Ninety-fourth Congress.

Alternatives

A variety of alternatives, as well as the No Action alternative, will be considered to provide storm protection to the three islands. The impacts of implementing the proposed alternative will be evaluated. Cumulative impacts of related current and pending Federal water resource projects, as well as any induced development, will be considered. Both offshore and land-based potential borrow areas will be evaluated for a proposed nourishment project. Alternative beach fill designs will be considered. These alternatives differ in the width and height of beach to be constructed and, on St. Simon Island, will evaluate the use of offshore breakwaters to retain the sand for a longer period.

The significant environmental resources and issues which have been identified are shown in the following list. The environmental evaluation in the EIS will include, but will not be limited to, anticipated impacts of the proposed alternatives on those resources.

Significant Environmental Resources

Wildlife Resources

Threatened and Endangered Species

Sea Turtles

Impacts During Dredging (Hoppers vs. Pipeline)

Impacts During Nesting
Density/Compaction of Nourished Beach
Beach Lighting

Whales

Manatee

Shorebirds

Pelican Spit—Piping Plover

Nesting

Resting

Estuarine Birds

Fishery Resources

Commercial Uses, Including Crab and Shrimp

Recreational Uses

Hampton River/Pelican Spit

Goulds Inlet

Nearshore Area

Nesting—Shoals

Benthic and Invertebrate Communities

Historic and Cultural Resources

Groundwater/Aquifer

Wetlands, Including Tidal Marshes

Recreational Boating

Significant Environmental Issues

Impacts of Using the Proposed Borrow Sites

Coastal Barrier Resources System

Little St. Simons Island

Pelican Spit

Goulds Inlet

Material Quality

Grain Size Compatibility

Toxicity

Natural Radioactivity

Water Quality—Turbidity

Effects of Federal Navigation Project

Post-Construction Monitoring

Beaches

Borrow Sites

The evaluation for this project shall be conducted so as to comply with the various federal and State Environmental Statutes and Executive Orders and associated review procedures. When the Draft Feasibility Report and EIS are available for review, a combined document will be filed with the U.S. Environmental Protection Agency to be coordinated and reviewed under the National Environmental Policy Act procedures. The EIS will contain a Fish and Wildlife Coordination Act Report prepared by the U.S. Fish and Wildlife Service and a section 404(b)(1) Evaluation, which will address any activities involving the discharge of dredged or fill material into waters of the United States.

Scoping

Environmental information meetings have been held with environmental agencies, environmental organizations, and interested citizens to identify issues which should be addressed in the draft EIS. No further scoping meetings are anticipated. Individuals aware of other issues which should be addressed beyond those mentioned on the previous pages are encouraged to contact the

Corps of Engineers at the address shown in this document.

Availability

A combined document consisting of a Draft Feasibility Report and EIS is scheduled to be available for public comment in December 1992. A public meeting will be held at that time.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 92-12579 Filed 5-28-92; 8:45 am]

BILLING CODE 3710-HP-M

U.S. Army Reserve Command Independent Commission; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

Name of Committee: U.S. Army Reserve Command Independent Commission.

Date of Meeting: June 15 & 17, 1992.

Place: 1225 Jefferson Davis Highway, suite 1410, Arlington, Virginia 22202.

Time: 8:30 a.m.—5 p.m.

Purpose: The Commission was established to assess the progress and effectiveness of the United States Army Reserve Command since its establishment.

Summary of Agenda: This is the fourth meeting of the Commission. The Commission will receive presentations from ROA, SARCA, and ODCSOPS. It will also review data gathered previously from meetings and staff visits in preparation for an In Progress Review for the Secretary of the Army. The Commission will then present an IRP to the SA.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the matter permitted by the committee. Anyone desiring to appear before the committee should contact the staff for procedures.

Robert J. Grasso,

Col, GS, Executive Assistant, USARC Independent Commission.

[FR Doc. 92-12699 Filed 5-28-92; 8:45 am]

BILLING CODE 3710-01-M

Department of the Navy

Government-owned Inventions; Availability for Licensing

AGENCY: Department of the Navy, DOD.

ACTION: Notice of Availability of Invention for Licensing.

SUMMARY: The invention listed below is assigned to the United States

Government as represented by the Secretary of the Navy and is made available for licensing by the Department of the Navy.

Requests for copies of the patent application cited should be directed to the Office of the Chief of Naval Research (Code OOCIP), 800 North Quincy Street, Arlington, Virginia 22217-5000 and must include the serial number.

FOR FURTHER INFORMATION CONTACT: Mr. E. J. Erickson, Staff Patent Attorney, Office of the Chief of Naval Research (Code OOCIP), 800 North Quincy Street, Arlington, Virginia 22217-5000, telephone (703) 696-4001.

Patent Application Serial No. 07/662,153 filed February 28, 1991 for "Nonpropagating Holder and Package for Explosive Devices".

Dated: May 19, 1992.

Wayne T. Baucino,
Lieutenant, JAGC, U.S. Naval Reserve,
Alternate Federal Register Liaison Officer.
[FR Doc. 92-12489 Filed 5-28-92; 8:45 am]
BILLING CODE 3810-AE-F

Intent to Grant Exclusive Patent License

AGENCY: Department of the Navy, DoD.

ACTION: Intent to Grant Exclusive Patent License; Screws Truly.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to James D. Rose dba Screws Truly a revocable, nonassignable, exclusive license to practice the Government-owned inventions described in U.S. Patent No. 4,958,970 "Graduated-Load Spring Washer System for Screws and Threaded Fasteners" issued September 25, 1990.

Anyone wishing to object to the grant of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Office of the Chief of Naval Research (Code OOCIP), Arlington, Virginia 22217-5000.

FOR FURTHER INFORMATION CONTACT: Mr. R. J. Erickson, Staff Patent Attorney, Office of the Chief of Naval Research (Code OOCIP), 800 North Quincy Street, Arlington, Virginia 22217-5000, telephone (703) 696-4001.

Dated: May 20, 1992.

Wayne T. Baucino
Lieutenant, JAGC, U.S. Naval Reserve,
Alternate Federal Register Liaison Officer.
[FR Doc. 92-12568 Filed 5-28-92; 8:45 am]
BILLING CODE 3810-AE-F

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

[Recommendation 92-1]

Operational Readiness of the HB-Line at the Savannah River Site

AGENCY: Defense Nuclear Facilities Safety Board.

ACTION: Notice; recommendation.

SUMMARY: The Defense Nuclear Facilities Safety Board has made a recommendation to the Secretary of Energy pursuant to 42 U.S.C. 2286a concerning operational readiness of the HB-Line at the Savannah River Site. The Board requests public comments on this recommendation.

DATES: Comments, data, views, or arguments concerning this recommendation are due on or before June 29, 1992.

ADDRESSES: Send comments, data, views, or arguments concerning this recommendation to: Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., suite 700, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Pusateri or Carole J. Council, at the address above or telephone (202) 208-6400.

Dated: May 22, 1992.

John T. Conway,
Chairman.

Dated: May 21, 1992.

The Board is presently completing an investigation of the readiness of resumption of operations at the HB-Line at the Savannah River Site. This investigation raises a number of significant safety issues that the Board believes must be discussed and resolved before the resumption should occur.

Therefore, the Board recommends that:

- DOE defer resumption of processing at the HB-Line for the present, pending issuance of the report of the Board's investigation, resolution of the issues, and possible further Board action.

In order that this matter can be dealt with expeditiously, we are giving high priority to completing the report embodying the results of the investigation.

John T. Conway,
Chairman.

Appendix—Transmittal Letter to the Secretary of Energy

Defense Nuclear Facilities Safety Board

May 21, 1992.

The Honorable James D. Watkins,
Secretary of Energy, Washington, DC 20585.

Dear Mr. Secretary: On May 21, 1992, the Defense Nuclear Facilities Safety Board, in accordance with 42 U.S.C. 2286a(5), unanimously approved Recommendation 92-1 which is enclosed for your consideration. Recommendation 92-1 deals with operational readiness of the HB-Line at the Savannah River Site.

42 U.S.C. 2286d(a) requires the Board, after receipt by you, to promptly make this recommendation available to the public in the Department of Energy's regional public reading rooms. The Board believes the recommendation contains no information which is classified or otherwise restricted. To the extent this recommendation does not include information restricted by DOE under the Atomic Energy Act of 1954, 42 U.S.C. 2161-68, as amended, please arrange to have this recommendation promptly placed on file in your regional public reading rooms.

The Board will publish this recommendation in the Federal Register.

Sincerely,

John T. Conway,
Chairman.

Enclosure.

[FR Doc. 92-12514 Filed 5-28-92; 8:45 am]
BILLING CODE 6820-KD-M

DEPARTMENT OF ENERGY

Financial Assistance Award; Intent to Award a Noncompetitive Grant

AGENCY: Department of Energy.

ACTION: Notice of noncompetitive Award of Grant.

SUMMARY: DOE announces that it plans to award a grant to South Carolina Wildlife and Marine Resources Department (SCWMRD), Columbia, South Carolina for continuation of natural resources management activities and biodiversity maintenance. The grant will be awarded for a five-year period with DOE support of \$208,341; SCWMRD will cost share \$208,341 during the period. Pursuant to § 600.7(b)(2)(i)(A) of the DOE Assistance Regulations (10 CFR part 600), DOE has determined that the activity to be funded is necessary for the satisfactory completion of an activity presently being funded by DOE and eligibility for this grant award shall be limited to SCWMRD.

FOR FURTHER INFORMATION CONTACT: Elizabeth T. Martin, Prime Contracts and Financial Assistance Branch, U.S. Department of Energy, Savannah River Field Office, P.O. Box A, Aiken, SC 29802, Telephone: (803) 725-2191.

SUPPLEMENTARY INFORMATION:
Procurement Request Number: 09-92SR15191.001

Project Scope:

Under this grant, the SCWMD will continue administering all aspects of the Crackerneck Wildlife Management Area public hunting and fishing area, assist with annual deer hunts, nuisance animal control, endangered species, environmental collection permits, animal population census and maintenance of biodiversity. SCWMD will continue the turkey restoration project whereby over 400 turkeys have been trapped since 1977 and moved off the Savannah River Site (SRS) to establish populations in 28 south Carolina counties as well as four other states. In addition, SCWMD provides wildlife management expertise to interested landowners in the region. This grant will continue to provide SCWMD with a base of operations and allows the SCWMD the ability to continue operations in this region. This effort began as a cooperative agreement in 1987; however, with this renewal a determination is made that substantial involvement between the parties will no longer be necessary and a grant is the financial assistance instrument to be utilized.

Issued in Aiken, South Carolina on May 12, 1992.

Robert E. Lynch,

DOE Savannah River Field Office, Head of Contracting Activity Designee.

[FR Doc. 92-12634 Filed 5-28-92; 8:45 am]

BILLING CODE 6450-01-M

Secretary of Energy Advisory Board Task Force on Radioactive Waste Management; Open Meetings

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following advisory committee meetings:

Name: Secretary of Energy Advisory Board Task Force on Radioactive Waste Management.

Date and Time: Tuesday June 16, 1992, 9 a.m.-5:30 p.m. Wednesday, June 17, 1992, 9 a.m.-5 p.m.

Contact: Dr. Daniel S. Metlay, Designated Federal Officers, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-3903.

Purpose: The Secretary of Energy Advisory Board Task Force on Radioactive Waste Management was established in October 1991 to: (1) Identify the factors that affect the level of public trust and confidence in Department of Energy programs; (2) assess the effectiveness of alternative financial, organizational, legal, and regulatory arrangements in promoting

public trust and confidence; (3) consider the effects on other programmatic objectives, such as cost and timely acceptance of waste, of those alternative arrangements; and (4) provide the Secretary with recommendations and guidance for implementing those recommendations.

During its meetings in Richland, Washington, the Task Force welcomes comments on what the idea of "public trust and confidence" suggests, what factors affect its level, and what steps the Department might take to strengthen it. Members of the public are invited to present their views and will be heard in the order they sign up at each of the two meetings.

Written comments may be submitted to Dr. Daniel Metlay, Secretary of Energy of Advisory Board, AC-1, 1000 Independence Avenue, SW., Washington, DC 20585. In order to insure consideration by Task Force members in advance of the meetings, written comments should be received by Wednesday, June 10, 1992.

Tentative Agenda

Tuesday, June 16, 1992, 9 a.m.-5:30 a.m.

Location: Best Western Tower Inn and Conference Center, 1515 George Washington Way, Richland, WA 99352.

9 a.m.-12 p.m. Discussion of report structure and content

12 p.m.-1 p.m. Lunch break

1 p.m.-2 p.m. Public comment (10 minute rule)

2 p.m.-3:30 p.m. Discussion of report structure and content

3:45 p.m.-4 p.m. Break

4 p.m.-5:30 p.m. Discussion of report structure and content

Wednesday, June 17, 1992, 9 a.m.-5 p.m.

Location: Best Western Tower Inn and Conference Center, 1515 George Washington Way, Richland, WA 99352.

9 a.m.-12 p.m. Roundtable discussion with representatives of the Department of Energy, Environmental Protection Agency, and the State of Washington

12 p.m.-1 p.m. Lunch break

1 p.m.-4 p.m. Roundtable discussion with representation of affected groups and communities

4 p.m.-5 p.m. Public comment (10 minute rule)

Public Participation: The Chairman of the Task Force is empowered to conduct the meeting in a fashion that will, in the Chairman's judgment, facilitate the orderly conduct of business:

Any member of the public who wishes to make an oral statement pertaining to agenda items should contact Dr. Metlay, the Designated Federal Officer, at the address or telephone number listed above. Requests must be received before 3 p.m. (E.S.T.) Wednesday, June 10, 1992. Every effort will be made to include the presentation during the

public comment periods. It is requested that oral presenters provide 15 copies of their statements at the time of their presentations.

Minutes: A transcript of the meeting will be available for public review and copying approximately 30 days following the meeting at the Public Reading Room, 1E-190 Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9:00 a.m. and 4 p.m., Monday through Friday except Federal holidays.

Issued: Washington, DC, on May 26, 1992.

Marcia L. Morris,

Advisory Committee Management Officer.

[FR Doc. 92-12624 Filed 5-28-92; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Procedures; ANR Pipeline Co. et al.

| | |
|--|-------------|
| ANR Pipeline Company..... | RS92-1-000 |
| ANA Storage Company..... | RS92-2-000 |
| Arkla Energy Resources..... | RS92-3-000 |
| Colorado Interstate Gas Company... | RS92-4-000 |
| Columbia Gas Transmission Cor- poration..... | RS92-5-000 |
| Columbia Gulf Transmission Cor- poration..... | RS92-6-000 |
| Michigan Gas Storage..... | RS92-7-000 |
| Northern Natural Gas Company..... | RS92-8-000 |
| Questar Pipeline Company..... | RS92-9-000 |
| Southern Natural Gas Company..... | RS92-10-000 |
| Texas Eastern Transmission Cor- poration..... | RS92-11-000 |
| Williams Natural Gas Company..... | RS92-12-000 |
| Williston Basin Interstate Pipeline ... | RS92-13-000 |
| CNG Transmission Corporation..... | RS92-14-000 |
| Equitrans, Inc..... | RS92-15-000 |
| Florida Gas Transmission Compa- ny..... | RS92-16-000 |
| Iroquois Gas Transmission..... | RS92-17-000 |
| Kentucky-West Virginia Gas Com- pany..... | RS92-18-000 |
| KN Energy, Inc..... | RS92-19-000 |
| Mid Louisiana Gas Company..... | RS92-20-000 |
| National Fuel Gas Supply Corpo- ration..... | RS92-21-000 |
| Panhandle Eastern Pipe Line Company..... | RS92-22-000 |
| Tennessee Gas Pipeline Company.. | RS92-23-000 |
| Texas Gas Transmission Corpora- tion..... | RS92-24-000 |
| Trunkline Gas Company..... | RS92-25-000 |
| United Gas Pipe Line Company..... | RS92-26-000 |
| Alabama Tennessee Natural Gas Company..... | RS92-27-000 |
| Algonquin Gas Transmission Com- pany..... | RS92-28-000 |
| Altamont Gas Transmission Co..... | RS92-29-000 |
| Carnegie Natural Gas Company..... | RS92-30-000 |
| Cornerstone Pipeline Co..... | RS92-31-000 |
| Delta Pipeline Company..... | RS92-32-000 |
| East Tennessee Natural Gas Company..... | RS92-33-000 |
| Gas Gathering Corporation..... | RS92-34-000 |
| Gas Transport Inc..... | RS92-35-000 |
| Gateway Pipeline Co..... | RS92-36-000 |
| Green Canyon Pipeline Company..... | RS92-37-000 |
| Gulf States Transmission Corpora- tion..... | RS92-38-000 |
| Inland Gas Company, Inc..... | RS92-39-000 |
| Louisiana Nevada Transit Compa- ny..... | RS92-40-000 |

| | |
|---|-------------|
| Midwestern Gas Transmission Company. | RS92-41-000 |
| MIGC, Inc. | RS92-42-000 |
| Mississippi River Transmission Corporation. | RS92-43-000 |
| Moraine Pipeline Company. | RS92-44-000 |
| Natural Gas Pipeline Company of America. | RS92-45-000 |
| Pacific Gas Transmission Company. | RS92-46-000 |
| Phillips Gas Pipeline Company. | RS92-47-000 |
| Riverside Pipeline Company. | RS92-48-000 |
| South Georgia Natural Gas Company. | RS92-49-000 |
| Valero Interstate Transmission Company. | RS92-50-000 |
| Valley Gas Transmission, Inc. | RS92-51-000 |
| Viking Gas Transmission Company. | RS92-52-000 |
| Western Gas Interstate Company. | RS92-53-000 |
| Western Transmission Corporation. | RS92-54-000 |
| Wyoming California Pipeline. | RS92-55-000 |
| Black Marlin Pipeline Company. | RS92-56-000 |
| Canyon Creek Compression Company. | RS92-57-000 |
| Caprock Pipeline Co. | RS92-58-000 |
| Chandeleur Pipe Line Company. | RS92-59-000 |
| El Paso Natural Gas Company. | RS92-60-000 |
| Freeport Interstate Pipeline Company. | RS92-61-000 |
| Gasdel Pipeline System, Inc. | RS92-62-000 |
| Great Lakes Gas Transmission. | RS92-63-000 |
| High Island Offshore System. | RS92-64-000 |
| Kern River Gas Transmission Co. | RS92-65-000 |
| Mojave Pipeline Co. | RS92-66-000 |
| Northern Border Pipeline Company. | RS92-67-000 |
| North Penn Gas Company. | RS92-68-000 |
| Northwest Pipeline Corporation. | RS92-69-000 |
| OkTex Pipeline Co. | RS92-70-000 |
| Overthrust Pipeline Company. | RS92-71-000 |
| Ozark Gas Transmission System. | RS92-72-000 |
| Pacific Interstate Transmission Company. | RS92-73-000 |
| Pacific Offshore Pipeline Company. | RS92-74-000 |
| Paiute Pipeline Company. | RS92-75-000 |
| Pelican Interstate Gas System. | RS92-76-000 |
| Point Arquette Natural Gas Line Co. | RS92-77-000 |
| Sabine Pipe Line Company. | RS92-78-000 |
| Sea Robin Pipeline Company. | RS92-79-000 |
| Seagull Interstate Corporation. | RS92-80-000 |
| Stingray Pipeline Company. | RS92-81-000 |
| Superior offshore Pipeline Company. | RS92-82-000 |
| Tarpon Transmission Company. | RS92-83-000 |
| Texas Sea Rim Pipe Line, Inc. | RS92-84-000 |
| Trailblazer Pipeline Company. | RS92-85-000 |
| Transcontinental Gas Pipe Line Corporation. | RS92-86-000 |
| Transwestern Pipeline Company. | RS92-87-000 |
| U-T Offshore System. | RS92-88-000 |
| West Gas Interstate, Inc. | RS92-89-000 |
| Wyoming Interstate Company, Ltd. | RS92-90-000 |

Notice of Procedures

These pipelines must make compliance filings in the above-captioned proceedings pursuant to § 284.14 of the Commission's regulations (18 CFR 284.14). Under Rule 2010 of the Commission's rules of practice and procedure (18 CFR 385.2010), these filings must be served on each person whose name is on the official service list, and any other person required to be served under law, or Commission rule or order. Therefore, the Commission will not issue notices of these compliance filings or publish a notice of such filings

in the Federal Register. Notice is given that any protests to, or comments on, a compliance filing in these dockets must be filed with the Commission within 21 days of the date the filing is made with the Commission. Pipelines should include a notice of this deadline for filing protests or comments in the transmittal letter of the compliance filing.

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 92-12559 Filed 5-28-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA92-2-31-003]

Arkla Energy Resources, A division of Arkla, Inc.; Compliance Filing

May 22, 1992

Take notice that on May 18, 1992, Arkla Energy Resources (AER), a division of Arkla, Inc. tendered for filing as part of Second Revised Volume No. 1 of its FERC Gas Tariff, the following revised tariff sheets to become effective April 1, 1992:

First Substitute Eleventh Revised Sheet No. 11

First Substitute Eleventh Revised Sheet No. 16

AER states that the proposed changes in the above tariff sheets reflect a decrease in AER's system cost of \$10,401 and would decrease its revenue from jurisdictional sales and service by \$207 for the PGA period of April, May and June 1992, as adjusted.

AER also tendered for filing the following revised tariff sheets to become effective June 1, 1992:

First Substitute Twelfth Revised Sheet No. 11
First Substitute Twelfth Revised Sheet No. 16

AER states that these tariff sheets were filed on May 11, 1992 and are being refiled to add an explanatory footnote. AER explains that the explanatory footnote is merely a housekeeping matter.

AER also tendered for filing the following revised tariff sheet to become effective July 1, 1992:

Thirteenth Revised Sheet No. 11

AER states that this tariff sheet includes a surcharge applicable to Rate Schedule G-2 sales as required by Commission order issued April 16, 1992.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed

on or before June 1, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-12519 Filed 5-28-92; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 1858-002, et al.]

Hydroelectric Applications [Beaver City, et al.; Applications]

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

1 a. *Type of Application:* New Minor License.

b. *Project No.:* 1858-002.

c. *Date Filed:* July 26, 1991.

d. *Applicant:* Beaver City.

e. *Name of Project:* Beaver City Canyon Plant #2.

f. *Location:* On the Beaver River in Beaver County, Utah.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. Section 791(a)-825(r).

h. *Applicant Contact:* Robert H. Lee, Mayor, P.O. Box 271, Beaver, UT 84713, (801) 438-2451.

i. *FERC Contact:* Hector M. Perez (202) 219-2843.

j. *Comment Date:* See attached paragraph D6.

k. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time.

l. *Description of Project:* The project consists of: (1) A 17-foot-high diversion dam; (2) a 2-mile-long, 30-inch-diameter penstock; (3) a powerhouse with an installed capacity of 626 kW; (4) a 4.1-mile-long, 69-kV transmission line; and (5) other appurtenances.

m. *Purpose of the Project:* To produce electrical power for municipal purpose of Beaver City.

n. This notice also consists of standard paragraphs B1 and D6.

o. *Available copies of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE, room 3104, Washington, DC 20426 or by calling (202) 208-1371. A copy is also available for inspection and reproduction at the address specified in item h above.

2 a. *Type of Application:* Transfer of License.

b. *Project No.*: 2756-049.
 c. *Date Filed*: April 20, 1992.
 d. *Applicant*: Burlington Electric Light Department and Winooski One Partnership.
 e. *Name of Project*: Chace Mill.
 f. *Location*: On the Winooski River in the City of Winooski and the City of Burlington, Chittenden County, Vermont.
 g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791 (a)—825(r).
 h. *Applicant Contact*: Peter C. Kissel, 1225 Eye Street, NW., suite 1200, Washington, DC 20005, (202) 682-3300.
 i. *FERC Contact*: Charles T. Raabe (dt) (202) 219-2811.
 j. *Comment Date*: June 22, 1992.
 k. *Description of Transfer*: The Burlington Electric Light Department and Winooski One Partnership (co-licensees) propose to transfer the Burlington Electric Light Department interests to Winooski One Partnership in order to facilitate financing and construction of the project. The license was issued November 3, 1988.
 l. This notice also consists of the following standard paragraphs: B, C & D2.
 3 a. *Type of Application*: Revised Exhibit G.
 b. *Project No.*: 4684-031.
 c. *Date Filed*: March 29, 1992.
 d. *Applicant*: Stillwater Hydro Partners L.P., New York.
 e. *Name of Project*: Stillwater Hydroelectric Project.
 f. *Location*: On the Stillwater and Lock No. 4 Dams, in Saratoga and Rensselaer Counties, New York.
 g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)—825(r).
 h. *Applicant Contact*: Donald E. Hamer, Stillwater Hydro Partners L.P., 420 Lexington Avenue, suite 540, New York, NY 10170; (212) 986-0440.
 i. *FERC Contact*: Mohamad Fayyad, (202) 219-2665.
 j. *Comment Date*: June 29, 1992.
 k. *Description of Amendment*: Licensee proposes to include within project boundary the following:
 1. Lands belonging to the People of the State of New York and Stillwater Hydro Partners L.P. that are needed for the project's recreation plan. The plan was approved by the Commission's Order dated February 26, 1992.
 2. Lands belonging to Walter S. Gifford, which include the easterly abutment of the dam and access to the abutment.
 3. Lands belonging to Niagara Mohawk Power Corporation on the easterly bank of the Hudson River immediately downstream of the dam. These lands include rights of access to the dam from Route 67 through Lands of the People of the State of New York, and

to the bed of the Hudson River downstream of the dam.
 4. Private property along a 3-mile corridor for the overhead transmission line, from the project to Niagara Mohawk Power Company System at its Schaghticoke-Schuylerville #4 substation.
 l. This notice also consists of the following standard paragraphs: B, C, and D2.
 4 a. *Type of Application*: Major License.
 b. *Project No.*: 11053-000.
 c. *Date Filed*: November 21, 1990.
 d. *Applicant*: The City of Hamilton, Ohio.
 e. *Name of Project*: Meldahl.
 f. *Location*: On the Ohio river in Bracken County, Kentucky.
 g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791(a)—825(r).
 h. *Applicant Contact*: Mr. E. Leon Daggett, Director of Public Utilities, City of Hamilton, OH, 20 High Street, Hamilton, OH 45011, (513) 868-5907.
 i. *FERC Contact*: Charles T. Raabe (dt) (202) 219-2811.
 j. *Deadline Date*: See Paragraph D9.
 k. *Status of Environmental Analysis*: This application is ready for environmental analysis at this time—see attached paragraph D9.
 l. *Description of Project*: The proposed project would utilize the existing U.S. Army Corps of Engineers Captain Anthony Meldahl Locks and Dam, and would consist of: (1) An intake channel at the left bank; (2) a 312-foot-long and 245-foot-wide concrete powerhouse containing 3—38,000-kw vertical Kaplan-type turbine/generator units; (3) a tailrace channel; (4) a 5-mile-long, 138-kv transmission line; and (5) appurtenant facilities.
 Applicant estimates that the average annual generation would be 420,000,000 kWh. Applicant would utilize about 78% of the project power. The remainder of the project power would be sold to other utilities.
 m. This notice also consists of the following standard paragraphs: A4 and D9.
 n. *Available Locations of Application*: A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208-1371.
 5a. *Type of Application*: Major License.
 b. *Project No.*: 10395-001.
 c. *Date Filed*: July 22, 1988.
 d. *Applicant*: The City of Augusta, Kentucky, and its Electric Plant Board.

e. *Name of Project*: Meldahl.
 f. *Location*: On the Ohio River in Bracken County, Kentucky.
 g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791(a)—825(r).
 h. *Applicant Contact*: Edward Rudd, Esq., P.O. Box 25, Brooksville, KY 41004, (606) 735-2950.
 i. *FERC Contact*: Charles T. Raabe (202) 219-2811.
 j. *Deadline Date*: See Paragraph D9.
 k. *Status of Environmental Analysis*: This application is ready for environmental analysis at this time—see attached paragraph D9.
 l. *Description of Project*: The proposed project would utilize the existing U.S. Army Corps of Engineers Captain Anthony Meldahl Locks and Dam, and would consist of: (1) An intake channel at the left bank; (2) a 260-foot-long and 260-foot-wide concrete powerhouse containing 3—35,000-kW horizontal Kaplan-type turbine/generator units operated at a 30-foot head; (3) a tailrace channel; (4) a 5-mile-long, 138-kV transmission line; and (5) appurtenant facilities.
 Applicant estimates that the average annual generation would be 499,000,000 kWh. Project power would be sold to nearby utilities.
 m. This notice also consists of the following standard paragraphs: A4 and D9.
 n. *Available Location of Application*: A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE., room 3104, Washington, DC 20426, or by calling (202) 208-1371.
 6a. *Type of Application*: Major License.
 b. *Project No.*: 10646-000.
 c. *Date Filed*: August 19, 1988.
 d. *Applicant*: The City of Vanceburg, Kentucky, and the Utilities Commission of the City of Vanceburg, KY.
 e. *Name of Project*: Meldahl.
 f. *Location*: On the Ohio River in Bracken County, Kentucky.
 g. *Filed Pursuant to*: Federal Power Act 16 U.S.C. 791(a)—825(r).
 h. *Applicant Contact*: Mr. William Bonner, P.O. Box 117, Vanceburg, KY 41179, (606) 796-2641.
 i. *FERC Contact*: Charles T. Raabe (tag) (202) 219-2811.
 j. *Deadline Date*: See Paragraph D9.
 k. *Status of Environmental Analysis*: This application is ready for environmental analysis at this time—see attached paragraph D9.
 l. *Description of Project*: The proposed project would utilize the existing U.S.

Army Corps of Engineers Captain Anthony Meldahl Locks and Dam, and would consist of: (1) An intake channel at the left bank; (2) a 217-foot-long and 176-foot-wide concrete powerhouse containing 3—29,450-kW horizontal Kaplan-type turbine/generator units operated at a 26.85-foot net head; (3) a tailrace channel; (4) a 5.1-mile-long, 138-kV transmission line; and (5) appurtenant facilities.

Applicant estimates that the average annual generation would be 466 GWh. Applicant would utilize 15–25% of the project power. The remainder of the project power would be sold to other utilities.

m. This notice also consists of the following standard paragraphs: A4 and D9.

n. *Available Locations of Application:* A copy of the application, as amended and supplemented, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 941 North Capitol Street, NE, room 3104, Washington, DC 20426, or by calling (202) 208-1371.

7a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11283-000.

c. *Date Filed:* April 20, 1992.

d. *Applicant:* City of Nashua, Iowa.

e. *Name of Project:* Nashua Dam.

f. *Location:* On the Cedar River in the City of Nashua, Chickasaw and Floyd Counties, Iowa.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)-825(r).

h. *Applicant Contact:* Rebecca Neal, City Hall, Nashua, Iowa 50658, (515) 435-4156.

i. *FERC Contact:* Charles T. Raabe (tag) (202) 219-2811.

j. *Comment Date:* June 29, 1992.

k. *Competing Application:* Project No. 11222-000.

Date Filed: January 8, 1992.

Due Date: April 23, 1992.

l. *Description of Project:* The proposed project would consist of: (1) An existing 16-foot-high dam having a left earthen embankment, a 258-foot-long concrete gate and overflow section, and an 82-foot-long integral powerhouse; (2) a reservoir having a 700 acre surface area at normal water surface elevation 960 feet NGVD; (3) an existing powerhouse containing 4 proposed generating units having a total installed capacity of 810-kW operated at an 18-foot-head; (4) a proposed 50-foot-long, 13.8-kV transmission line; and (5) appurtenant facilities.

Applicant estimates that the average annual generation would be 4.0 GWh and that the cost of the studies under the permit would be \$140,000. Project

energy would be sold to IPS Electric. The existing dam is owned by Applicant.

m. This notice also consists of the following standard paragraphs: A8, A10, B, C, and D2.

Standard Paragraphs

A4. *Development Application*—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A8. *Preliminary Permit*—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications or notices of intent. Any competing preliminary permit or development application or notice of intent to file a competing preliminary permit or development application must be filed in response to and in compliance with the public notice of the initial preliminary permit application. Initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice. A competing license application must conform with 18 CFR 4.30 (b)(1) and (9) and 4.36.

A10. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments,

protests, or motions to intervene must be received on or before the specified comment date for the particular application.

B1. *Protests or Motions to Intervene*—Anyone may submit a protest or a motion to intervene in accordance with the requirements of rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, Room 1027, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D6. *Filing and Service of Responsive Documents*—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments,

recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (June 22, 1992 for P-1858-002). All reply comments must be filed with the Commission within 105 days from date of this notice. (August 4, 1992 for P-1858-002).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All findings must (1) bear in all capital letters the title "PROTEST", "MOTION TO INTERVENE", "COMMENTS", "REPLY COMMENTS," "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, Room 1027, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

D9. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to § 4.34(b) of the regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108,

May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. (June 22, 1992 for each project). All reply comments must be filed with the Commission within 105 days from the date of this notice. (August 6, 1992 for P-11053-000; August 4, 1992 for P-10395-001 and P-10646-000).

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title "COMMENTS", "REPLY COMMENTS", "RECOMMENDATIONS," "TERMS AND CONDITIONS," or "PRESCRIPTIONS;" (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, room 1027, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Dated: May 26, 1992, Washington, DC.

Lois D. Cashell,

Secretary.

[FR Doc. 92-12558 Filed 5-28-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP92-174-000]

**National Fuel Gas Supply Corp.;
Petition to Waive Tariff Provision**

May 22, 1992.

Take notice that on May 20, 1992, National Fuel Gas Supply Corporation (National) tendered for filing its petition

for a waiver of a provision in its FT Rate Schedule relating to the amount of cost for which National may seek reimbursement when constructing facilities in order to render a firm transportation service. National states that the proposed effective date of the waiver is June 15, 1992.

National states that it is requesting a waiver of subsection 4.2(f) of National's FT Rate Schedule as necessary to permit National to recover transportation revenues lost as a result of the installation of an interconnection with Wy-Catt Pipeline Company (Wy-Catt). National states that on April 24, 1992, in Docket No. CP92-464-000, it filed a request for authorization to establish an interconnection with WY-Catt. Wy-Catt proposes to redeliver the gas shipped on Natural to Medina Power Company, a project-financed power generation project of which Wy-Catt is a partner.

National states that Wy-Catt desires service as soon as possible, and has agreed to reimburse National for all transportation revenues lost due to National's shutting down its "Line X" during the construction of these facilities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 if the Commission's Rules and Regulations. All such motions or protests should be filed on or before June 1, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-12517 Filed 5-28-92; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ92-2-9-002]

**Tennessee Gas Pipeline Co.;
Compliance Filing**

May 22, 1992.

Take notice that on May 15, 1992, Tennessee Gas Pipeline Company (Tennessee) tendered for filing the following tariff sheet to its FERC Gas Tariff to be effective April 1, 1992:

Third Revised Volume No. 1

Substitute Twenty-sixth Revised Sheet No. 5

Tennessee states that the purpose of this filing is to correct a pagination error included in Tennessee's April 23, 1992 filing in the above-referenced docket.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.211. All such protests should be filed on or before June 1, 1992. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 92-12518 Filed 5-28-92; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

Change of Scope of an Existing Federally Funded Research and Development Center

AGENCY: Department of Energy (DOE).

ACTION: Notice of Change of Scope of an Existing Federally Funded Research and Development Center; Third of Three Notices.

SUMMARY: This notice advises interested parties of the intent of the Department of Energy (DOE) to expand the scope and mission of the Stanford Linear Accelerator Center (SLAC), a Federally Funded Research and Development Center (FFRDC), to include the synchrotron radiation research and user support currently being performed at the Stanford Synchrotron Radiation Laboratory (SSRL). Funding for the SSRL activities will be provided under the existing SLAC management and operating contract, DE-AC03-76SF00515.

DATES: Comments on this notice should be submitted to DOE by June 29, 1992.

ADDRESSES: Comments should be forwarded to the Director, Acquisition and Assistance Management Division, Office of Energy Research, ER-64, U.S. Department of Energy, Washington, DC 20585.

SUPPLEMENTARY INFORMATION:

Change of Purpose and Mission

The Federal Acquisition Regulations (section 5.205(b)) requires an Agency to publish three Federal Register notices before changing an FFRDC's purpose

and mission. DOE published the first notice announcing DOE's intention to expand the scope of the FFRDC at SLAC on March 30, 1992, and the second on April 30, 1992. One comment supportive of this merger has been received.

Background

SLAC was established in 1962, and has operated since that time as a single purpose laboratory engaged in experimental and theoretical research in elementary particle physics, including the development of advances in high-energy accelerators and elementary particle detectors. SLAC is managed and operated for the DOE under Contract DE-AC03-76SF00515, a management and operating contract as defined and regulated in accordance with FAR subpart 17.6, DEAR subpart 917.6, and DEAR part 970. SLAC was designated as an FFRDC on November 1, 1967, and has been operated in accordance with Office of Federal Procurement Policy Letter 84-1 and FAR section 35.017.

The SSRL, located on the SLAC site, was formally established in 1978. It was one of the first major laboratories to develop synchrotron radiation and to make it available to a large community of scientists, who have used it for basic and applied research in biology, chemistry, materials science, solid-state physics, and biomedical research. SSRL is funded by the DOE under a research and development, cost reimbursement contract with Stanford University.

The rationale for merging the two laboratories is based upon a number of reasons, including: the two laboratories share the same site; share use of some facilities; share interests in the development of advanced accelerators; and, both face the need for increased oversight in the areas of environment, safety and health.

The growth and development of the field of synchrotron radiation is another factor in the merger. In 1972, SLAC completed the Stanford Positron Electron Asymmetric Ring (SPEAR), a single ring some 80 meters in diameter, in which counter-rotating beams of electrons and positrons from the SLAC Linac circulate at energies up to above 4 GeV. In 1973, pioneering advances were made at SPEAR in synchrotron radiation (energetic photons generated by the electrons circulating within the ring), leading to the creation of SSRL as a separate laboratory in 1976. Since that time, many beamlines have been brought into regular operation; in addition, SSRL has constructed two beamlines for synchrotron research on the larger Positron Electron Project (PEP) Storage Ring, operated by SLAC for high energy physics. Until recently,

SLAC and SSRL (the Laboratory) have used SPEAR and PEP jointly for high energy physics and synchrotron radiation research, with 50% of the SPEAR machine time devoted to each field. In November 1990, SSRL completed construction of a new 3-GeV injector, replacing the SLAC Linac as the source of electrons. This allowed SSRL to be operated independently of the High Energy Physics program at SLAC.

Merging the two activities at the same site into a single Laboratory, with a single director, provides the Laboratory with: (1) Improved management over these important research instruments; (2) focussed guidance to maximize the research programs of the facilities; (3) clearer responsibility and authority for managing the Laboratory's activities so as to minimize environmental impacts and maximize safety and health for employees; and, (4) the opportunity for small savings in the administrative areas (reduction in paperwork).

Expanded Mission of SLAC

SLAC will continue as a focal point for high energy electron physics in the United States and will be available to the user community. The Laboratory is responsible for experimental facility operation, high energy accelerator operations and development, advanced accelerator R&D, and central computing, as well as high energy physics user support.

Added to these current SLAC activities at the site will be the ongoing SSRL synchrotron radiation program. SSRL activities include operation of the booster synchrotron, the SPEAR storage ring, synchrotron radiation facilities development, and user support for both the university community and industrial users interested in this area of laboratory technology transfer.

A single, unified Environment, Health and Safety division will have site-wide responsibility for these areas. The Laboratory's administrative group will have its charter expanded to cover SSRL activities.

SSRL is an established laboratory and, although it is not a Federally funded R&D center, it is an essential component of the Nation's capability in providing a balanced array of synchrotron light sources to a large and growing community of user scientists. These facilities are used for research in structural biology, medicine, chemistry, materials science, and solid state physics. SSRL has been a leader in the development of new concepts to generate synchrotron light, especially in the development of wiggler and

undulator sources with unprecedented spectral brightness. Such developments have provided the technical basis for the third generation light sources now being constructed at Lawrence Berkeley Laboratory (LBL) (the Advanced Light Source (ALS) will be a high brightness source of Vacuum Ultraviolet (VUV) and soft x-rays) and at Argonne National Laboratory (ANL) (the Advanced Photon Source (APS) will provide extremely bright beams of hard x-rays). The joining of SSRL and SLAC should enhance the potential for future developments in light sources by bringing the expertise in accelerator physics from SLAC together with the end users—the synchrotron radiation user community of SSRL under one administrative roof.

Alternative Sources

As noted above, SSRL is important in providing balance in the Nation's capability—it provides a strong center for x-ray science on the West Coast and complements the x-ray source at Brookhaven National Laboratory (BNL) on the East Coast. Both facilities are now over-subscribed. If either SSRL or National Synchrotron Light Source (NSLS) should go down, the most important x-ray experiments could not be done. The APS will be another source of hard x-rays in the Midwest when it becomes operational in mid-1996, and will relieve the pressure on SSRL and NSLS.

SSRL is also an important source for experiments in the VUV spectral region serving users on the West Coast. It is now complemented by the VUV source at NSLS, and, again, SSRL and NSLS back each other up. When the ALS becomes operational in mid-1993, some of the VUV experimentation will move from SSRL to ALS; but SSRL will continue to be an important source, particularly for users from the silicon valley region. Thus, SSRL provides balance in the Nation's capability—spectrally and geographically—and will be important in serving a large user community for years to come. Accordingly, existing alternative sources for satisfying the agency's requirements cannot effectively meet the special research and development needs.

Government Expertise for Evaluation

Sufficient Government expertise is available to adequately and objectively evaluate the work to be performed by the expanded FFRDC. The Division of Chemical Sciences, within DOE's Office of Energy Research Basic Energy Sciences Program, has been responsible for program direction and evaluation for

SSRL since the Laboratory has been funded by the DOE; the Chemical Sciences staff members will continue to be responsible for the SSRL Division at SLAC. The Division of High Energy Physics, within DOE's Office of Energy Research High Energy and Nuclear Physics Program, was responsible for the creation and construction of SLAC in 1962 and has been responsible for SLAC's evolving program since that time. The Division will continue to provide the same degree of program guidance to SLAC management concerning high energy physics research and other related activities as it did when SLAC operated as a single purpose laboratory.

Cost Control

DOE regulations, policies and procedures relative to management and operating contracts provide controls to ensure that the costs of the services provided are reasonable. Compliance with these regulations, policies and procedures is monitored by the DOE San Francisco Field Office staff.

Differentiation between FFRDC and non-FFRDC Work

The scope of work of the M&O contract for the combined activities will clearly define the efforts to be undertaken by the single Laboratory. That work scope has been summarized above in the section entitled, Expanded Mission of SLAC.

Long Term Support for the Laboratory

The Division of High Energy Physics supports the long-term goals for SLAC, i.e., Stanford Linear Collider (SLC) research and planning for the next linear collider. Within available funding, the Division envisions long term support for SLAC activities as the primary facility for electron physics research. SSRL provides support to several hundred scientists, most of whom receive support from sources other than DOE. The facility serves a number of industrial users and is a key element of the Department's technology transfer program. These facts, coupled with the important advances in biomedicine and material sciences made possible by the Laboratory, support the intent of the Office of Basic Energy Sciences to provide long term funding for this laboratory.

Management by an Autonomous Organization

The FFRDC composed of SLAC and SSRL will be managed and operated by an identifiably separate operating unit of Stanford University.

Issued in Washington, DC, on May 6, 1992.

D.D. Mayhew,

Deputy Director for Management Office of Energy Research.

[FR Doc. 92-12629 Filed 5-28-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

[FE Docket No. 92-44-NG]

Coastal Gas Marketing Co.; Application for Blanket Authorization to Import and Export Natural Gas and Liquefied Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application for blanket authorization to import and export natural gas and liquefied natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on March 31, 1992, of an application filed by Coastal Gas Marketing Company (CGM), for blanket authorization to import up to 600 Bcf and to export up to 150 Bcf of natural gas, including liquefied natural gas (LNG), from and to Canada, Mexico, and other countries. CGM requests that the authorization be granted for a period of two years beginning on the date of the first delivery of gas on LNG beginning July 11, 1992, when its current blanket import/export authorization expires. CGM intends to use existing pipeline and LNG facilities for the processing and transportation of the volumes to be imported and exported and would continue to file quarterly reports detailing each transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene or notions of intervention, as applicable, requests for additional procedures and written comments are to be filed in Washington, DC., at the address listed below no later than 4:30 p.m., eastern time, June 29, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478.

FOR FURTHER INFORMATION CONTACT:

Laraine A. Moore, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-070, FE-53, 1000

Independence Avenue, SW.,
Washington, DC 20585, (202) 586-9478.
Lot Cooke, Office of Assistant General
Counsel for Fossil Energy, U.S.
Department of Energy, Forrestal
Building, room 6E-042, GC-14, 1000
Independence Avenue, SW.,
Washington, DC 20585 (202) 586-0503.

SUPPLEMENTARY INFORMATION: CGM, a Delaware corporation with its principal place of business in Houston, Texas, is a marketer of natural gas. CGM is currently authorized to import up to 600 Bcf and export up to 150 Bcf of natural gas through July 12, 1992, under DOE/FE Opinion and Order No. 408 (Order 408), issued July 12, 1990 (1 FE 70,372). CGM's quarterly reports filed with FE to date indicate that approximately 25 Bcf of gas has been imported, and 2 Bcf has been exported under Order 408.

CGM requests authorization to import and export natural gas, including LNG, on a short-term or spot-market basis, either for its own account or for the accounts of others. CGM asserts that the specific pricing terms of each import and export between the parties and therefore would reflect competitive factors in the markets served.

The decision on CGM's application for import authority will be made consistent with DOE's natural gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing natural gas export applications, domestic need for the gas to be exported is considered, and any other issue determined to be appropriate in a particular case, including whether the arrangement is consistent with DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment in their responses on these matters as they relate to the requested import and export authority. CGM asserts that the proposed imports would be competitive and there is no current need for the domestic gas that would be exported. Parties opposing this application bear the burden of overcoming these assertions.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this

proceeding until DOE has not its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the Protester a party to the proceeding, although protests and comments received from persons who are to parties will be considered in determining and appropriate action to be taken on the application. All protests, motion to intervene, notices of intervention, request for additional procedures, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to

this notice, in accordance with 10 CFR § 590.316.

A copy of CGM's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, May 22, 1992.

Clifford Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Fossil Energy.

[FR Doc. 92-1263 Filed 5-28-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 92-51-NG]

MG Natural Gas Corp.; Application for Blanket Authorization to Export Natural Gas

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on April 13, 1992, of an application filed by MG Natural Gas Corp. (MGNB) requesting blanket authorization to export up to 50 Bcf of natural gas to Mexico over a two-year term beginning on the date of first export. The proposed exports would take place at any point on the international border where existing pipeline facilities are located. MGNB would file quarterly reports detailing any transactions.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, June 29, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue, S.W., Washington, DC 20585.

FOR FURTHER INFORMATION:

Peter Lagiovane, Office of Fuels Programs, Fossil Energy; U.S. Department of Energy, Forrestal Building, room 3F-056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-8116.
Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal

Building, room 6E-042, 1000
Independence Avenue, SW.,
Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: MGNG is a Texas corporation with its principal place of business in Houston, Texas. MGNG is a marketer of natural gas and states that any gas exported under the requested authorization would be exported either for MGNG's own account or on behalf of others. The exported gas would come from production areas in the United States with surplus supplies of natural gas or would consist of supplies which are incremental to the needs of current purchasers. No contracts for the sale of the proposed exports have been executed, however, the specific details of each export transaction would be filed by MGNG in conformity with DOE's quarterly reporting requirements. MGNG anticipates all sales would result from arms-length negotiations and the prices would be determined by market conditions.

This export application will be reviewed under section 3 of the NGA and the authority contained in DOE Delegation Order Nos. 0204-111 and 0204-127. In deciding whether the proposed export of natural gas is in the public interest, domestic need for the gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with the DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. The applicant asserts that there is no current need for the domestic gas that would be exported under the proposed arrangement. Parties opposing this arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written

comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR § 590.316.

A copy of MGNG's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m. Monday through Friday, except Federal holidays.

Issued in Washington, DC, on May 22, 1992.
Clifford P. Tomaszewski,
Director, Office of Natural Gas, Office of
Fuels Programs, Fossil Energy.
[FR Doc. 92-12631 Filed 5-28-92; 8:45 am]
BILLING CODE 6450-01-M

[FE Docket No. 92-17-NG]

Mountain Gas Resources, Inc.; Order Granting Blanket Authorization to Import and Export Natural Gas From and to Canada and Mexico

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of an order granting blanket authorization to import and export natural gas from and to Canada and Mexico.

SUMMARY: The Office of Fossil Energy of the Department of Energy gives notice that it has issued an order granting Mountain Gas Resources, Inc. blanket authorization to import up to 50 Bcf and to export up to 50 Bcf of natural gas from and to Canada and Mexico over a two-year term beginning on the date of the first import or the first export.

A copy of this order is available for inspection and copying in the Office of Fuels Programs Docket Room 3F-056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room, is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, May 21, 1992.
Charles F. Vacek,
Deputy Assistant Secretary for Fuels
Programs, Office of Fossil Energy.
[FR Doc. 92-12627 Filed 5-28-92; 8:45 am]
BILLING CODE 6450-01-M

[FE Docket No. 92-54-NG]

SEMCO Energy Services, Inc.; Application for Blanket Authorization to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.
ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application filed on April 24, 1992 by SEMCO Energy Services, Inc. (SEMCO) requesting blanket authorization to import up to 800 Bcf of natural gas from Canada over a two-year term, beginning on July 1, 1992, the day after SEMCO's current two-year blanket import authorization expires. See DOE/FE Opinion and Order No. 401, 1 FE ¶ 70,328

(June 20, 1990). SEMCO intends to continue using existing facilities, and will submit quarterly reports of its transactions.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, June 29, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478.

FOR FURTHER INFORMATION CONTACT:

Susan K. Gregersen, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F-070, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-0063.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: SEMCO is a Michigan corporation with its principal place of business in Port Huron, Michigan. SEMCO is a wholly owned subsidiary of Southeastern Michigan Gas Enterprises, Inc., which is also a Michigan corporation principally located in Port Huron, Michigan. SEMCO requests authority to continue to import gas from Canada, either for its own account or on behalf of others, for sale to a range of U.S. buyers including agricultural, commercial and industrial end users, local distribution companies, electric utilities and interstate pipelines. SEMCO will purchase the gas under short-term, market-responsive contracts, and will import the gas at existing points along the international border. From June 30, 1990, through December 31, 1991, SEMCO imported approximately 17.5 MMcf of natural gas.

The decision on SEMCO's request for import authority will be made consistent with DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the market served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties should comment on the issue of competitiveness as set forth in those guidelines. SEMCO asserts in its application that the proposed

arrangement is competitive. Parties opposing SEMCO's request for import authorization bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the address listed above.

It is intended that a decisional record on the application will be developed through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there

are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of SEMCO's application is available for inspection and copying in the Office of Fuels Programs Docket Room 3F-056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, on May 22, 1992.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Fossil Energy.

[FR Doc. 92-12626 Filed 5-29-92; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 90-92-NG]

Sumas Cogeneration Company, L.P., Sumas Energy, Inc.; Application to Import Natural Gas From Canada

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on February 25, 1992, of an amended application filed by Sumas Cogeneration Company, L.P. (SCCLP) and Sumas Energy, Inc. (SEI) to import Canadian natural gas. SCCLP is requesting authorization to import up to 8 Bcf of natural gas per year over a 20-year term commencing in the first quarter of 1993. The proposed imports would be used as fuel in a new 113 megawatt (MW) cogeneration plant to be constructed and operated by SCCLP near Sumas, Washington. The gas would be delivered to the cogeneration facility by the proposed Sumas Pipeline-USA pipeline facility. The natural gas would be imported at the interconnection between Westcoast Energy, Inc. (Westcoast), and Sumas Pipeline-USA near Huntingdon, British Columbia.

The application was filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and

written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, June 29, 1992.

ADDRESSES: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F-056, FE-50, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION:

Steven Mintz, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F-070, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9506.
 Lot Cooke, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 6E-042, GC-32, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-0503.

SUPPLEMENTARY INFORMATION: The proceeding in this docket commenced on October 25, 1990, when SEI filed an application with FE under section 3 of the NGA for authorization to import from Canada natural gas to be used to fuel a new cogeneration facility. In DOE/FE Opinion and Order No. 494 (Order 494), issued March 28, 1991, DOE granted conditional import authorization to SEI. Since issuance of this conditional order the applicant has made a significant number of changes to the underlying project as detailed in their February 25, 1992, amended application. These included a change in the proposed authorization holder, an increase in the proposed import volumes, an increase in the size of the cogeneration facility, and changes in the gas supply arrangements. Given the substantial differences between the project that received conditional authorization and the project that is now being proposed, DOE has decided that it is appropriate to rescind the conditional authorization issued in Order 494 and treat the amended application *de novo*. All parties granted intervention in Order 494 will continue to be intervenors in this proceeding without having to make any additional filings.

SCCLP is a limited partnership organized under the laws of the State of Delaware. SCCLP was created as a new limited partnership to obtain additional equity investment for financing the cogeneration project. SEI is the sole general partner and Whatcom Cogeneration, L.P., is the sole limited partner.

SCCLP intends to construct, own and operate a new gas-fired cogeneration facility near Sumas, Washington. The cogeneration powerplant is scheduled to have an electrical generating capacity of 113 MW. SCCLP has signed a 20-year contract with Puget Sound Power &

Light Company (Puget Sound) to supply up to 110 MW of net electric power on a firm basis, commencing in the first quarter of 1993. In addition, approximately 25,000-65,000 lbs/hr of low-pressure steam will be sold to SOCCO, INC. (SOCCO), which will own and operate a lumber kiln drying facility adjacent to the cogeneration facility. SOCCO is an affiliated company of SEI.

In order to fuel the proposed cogeneration facility, SCCLP requests authority to import from Canada up to 8 Bcf per year over a 20-year term, at an expected daily rate of up to 24,000 Mcf. The source of the gas will be a combination of gas produced from reserves owned by ENCO Gas, Ltd. (ENCO), a wholly owned subsidiary of SCCLP, and gas purchased under firm contracts from Canadian Hydrocarbons Marketing, Inc. (CHMI). ENCO has entered into a gas sale and purchase agreement with SCCLP to supply on a firm basis up to 24,000 Mcf per day of natural gas over a 20-year period. It is anticipated, however, that in the initial contract years ENCO will supply SCCLP only 12,000 Mcf of natural gas per day, with CHMI supplying additional natural gas to SCCLP. The volumes supplied by ENCO will increase up to 24,000 Mcf per day after approximately three to five years, when the gas supply from CHMI is expected to be eliminated. Under the ENCO/SCCLP gas sale and purchase agreement the price for the gas at the international border would be U.S. \$1.94 per MMBtu for the first contract year, escalating at a per annum rate of 7.5% on November 1 of each subsequent contract year commencing November 1, 1993, until October 31, 2000, and escalating at 4% per annum thereafter. ENCO will acquire the necessary gas reserves in Canada to support the gas sale and purchase agreement.

In order to allow ENCO to temporarily defer certain reserve tie-in costs, ENCO has entered into a natural gas purchase agreement with CHMI. Under this arrangement, CHMI will supply ENCO with 6,300 Mcf per day of gas on a firm basis at the international border commencing approximately March 1993 and ending October 31, 1994. ENCO may extend this contract for an additional year with CHMI's consent. This gas from CHMI will represent 6,300 Mcf per day of the 12,000 Mcf per day that ENCO will initially deliver to SCCLP under the gas sale and purchase agreement. The price ENCO would pay at the international border would consist of a two-part demand/commodity charge. From March 1, 1993, through October 31, 1993, the demand charge would be U.S. \$0.55 per Mcf and the commodity charge would be U.S. \$0.95; from November 1,

1993, through October 31, 1994, the demand/commodity charges would be U.S. \$0.60 and \$1.02 respectively, and, if the contract is extended, the demand/commodity charges for November 1, 1994, through October 31, 1995 would be U.S. \$0.65 and \$1.10, respectively.

In addition, SCCLP has entered into a gas supply agreement with CHMI under which CHMI will supply on a firm basis up to 10,000 Mcf per day of gas at the international border, beginning on the date of first delivery of gas to SCCLP, anticipated to be March 1, 1993, until October 31, 2008. SCCLP has the option each year after the first contract year to extend CHMI's firm supply obligation for an additional year beginning November 1, or to reduce the quantity of gas covered by this obligation. It is anticipated that the gas quantities covered by CHMI's firm supply obligation will be completely eliminated and replaced by quantities covered by the ENCO and SCCLP gas sale and purchase agreement after three to five years. Under the gas supply agreement, the daily contract quantity (DCQ) would be 10,000 Mcf less reductions in the supply obligations made pursuant to the agreement. The price for the gas would be a fixed price of U.S. \$1.39 per MMBtu for the first contract year, would escalate in the second through fifth years in accordance with the estimated price for British Columbia gas subject to floor and ceiling limits, and would be set by mutual agreement in subsequent years. In addition, SCCLP would pay a demand charge of 40% of the contract price times the difference in the DCQ and the actual takes of gas. Finally, the gas supply agreement provides, in the event ENCO and CHMI cannot supply all of the fuel requirements for the cogeneration plant, CHMI will seek on a reasonable efforts basis to provide the deficient quantities. The price for such backstop gas will be CHMI's delivered cost multiplied by one hundred and three percent (103%).

ENCO is a newly formed corporation established for the purpose of acquiring, operating and producing natural gas from wells located in British Columbia and Alberta, Canada. ENCO will commit all of its reserves to support its contract with SCCLP by acquiring reserves from several Canadian companies in an initial amount of approximately 100 Bcf. ENCO has already acquired some of the gas properties and has executed letters of intent or purchase and sales agreements for other properties sufficient to cover this quantity of proven producing and proven shut-in reserves. In addition, the agreements with CHMI are expected to contribute

additional reserves of approximately 4 Bcf and 18 Bcf respectively. ENCO also intends to acquire additional proven reserves of approximately 24 Bcf over the next year before the commencement of commercial operation of the cogeneration plant. SCCLP, therefore, will initially have access to approximately 146 Bcf of reserves, a quantity that will be sufficient to supply SCCLP with the fuel needed by the cogeneration project for approximately twenty years. Finally, ENCO will seek to further develop the acreage accompanying the reserves it acquires and thereby add additional proven reserves.

The gas produced by ENCO in British Columbia will be gathered by ENCO from the wellheads to the inlet to Westcoast's system in the fields. Gas produced by ENCO in Alberta will be gathered and transported by ENCO from the wellheads through facilities to be constructed by it to Westcoast's Alberta subsidiary, which in turn will transport the gas to Westcoast's system in British Columbia. The gas will then be conditioned and processed by Westcoast and transported south on a firm basis by Westcoast to its Meter Station No. 16 at Huntingdon, British Columbia. SCCLP has entered into a contract with Westcoast under which Westcoast will construct, own and operate the tap and meter facilities in Canada and the approximately 300 meters of pipeline from its existing facilities to the Canadian border. SCCLP will construct, own and operate the Sumas Pipeline-USA, an approximately 3.8 mile line from the international boundary to the cogeneration facility. SCCLP has received all necessary federal, state and local permits to construct both the cogeneration plant and the connecting pipeline.

In support of its application, SCCLP maintains that the proposed import arrangement is competitive and will allow gas to be delivered to the cogeneration project on a long-term, firm supply basis. SCCLP claims that the terms of the proposed import arrangements are more economical than might be obtained for alternative sources of gas. In addition, SCCLP states the proposed natural gas imports are needed for the cogeneration facility which will meet the electric power needs of Puget Power and its customers. Finally, SCCLP asserts the gas supply will be secure and reliable, that sufficient gas reserves will be acquired in Canada and transportation arrangements will be secured.

SCCLP has filed a Certificate of Compliance with the coal capability

requirement for proposed new electric powerplants on December 16, 1991, pursuant to the powerplant and Industrial Fuel Use Act of 1978 (10 U.S.C. § 3801 *et seq.*, as amended; 53 FR 35544, September 14, 1988).

The decision on SCCLP's application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Other matters that may be considered in making a public interest determination include need for gas, security of the long-term supply, and any relevant issues that may be unique to cogeneration facilities. Parties that may oppose this application should comment in their responses on the issues of competitiveness, need for the gas, and security of supply as set forth in the policy guidelines. The applicant asserts that this import arrangement is in the public interest because it is competitive and its gas source will be secure. Parties opposing the import arrangement bear the burden of overcoming these assertions.

NEPA Compliance.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321, *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the

Office of Fuels Programs at the above address. Those who are already a party to these proceedings will retain their status in this docket and need not file any additional comments unless, under the facts of the amended application, they so choose.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial questions of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice to all parties will be provided. If no party requests additional procedures, a conditional or final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR § 590.316.

A copy of SCCLP's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, May 22, 1992.

Clifford P. Tomaszewski,

Director, Office of Natural Gas Office of Fuels Programs Fossil Energy.

[FR Doc. 92-12628 Filed 5-28-92; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearing and Appeals

Cases filed During the D Week of May 1 Through May 8, 1992

During the Week of May 1 through May 8, 1992, the appeals and

applications for exception or other relief listed in the appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments

on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such

comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

Dated: May 22, 1992.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of May 1 through May 8, 1992]

| Date | Name and location of applicant | Case no. | Type of submission |
|-------------|---|-----------|---|
| May 4, 1992 | Dr. J.C. Laul, Pascal, WA | LFA-0209 | Appeal of an information request denial. If granted: The April 2, 1992 Freedom of Information Request Denial issued by the Richland Field Office would be rescinded, and Dr. J.C. Laul would receive access to DOE records regarding his discharge by Battelle, Pacific Northwest Laboratory on allegations of State Environmental violations and misconduct. |
| May 5, 1992 | Texas International Company and Texas International Petroleum Corp. Washington, DC. | LEF-0045 | Implementation of special refund procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 C.F.R., Part 205, Subpart V, in connection with September 4, 1984 Consent Order entered into Texas International Company and Texas International Petroleum Corporation. |
| May 6, 1992 | Gulf/Lawrence Grocery, Woodbridge, VA | RR300-146 | Request for modification/rescission in the Gulf refund proceeding. If granted: The April 6, 1992 Dismissal Letter (Case No. RF300-13291) issued to Lawrence Grocery would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding. |
| Do | Shearon, Inc., Harvard, IL | LEE-0043 | Exception to the reporting requirements. If granted: Shearon, Inc. would not be required to file EIA-863, "Petroleum Product Sales Identification Survey." |
| May 7, 1992 | Gulf/Dembeck's Sparrow Point Gulf Atlantic Beach, FL | RR300-147 | Request for modification/rescission in the Gulf refund proceeding. If granted: The April 24, 1992 Dismissal Letter (Case No. RF300-11639) issued to Dembeck's Sparrow Point Gulf would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding. |
| Do | Gulf/Rios Gulf, Atlantic Beach, FL | RR300-148 | Request for modification/rescission in the Gulf refund proceeding. If granted: The February 13, 1991 Dismissal Letter (Case No. RF300-11643) issued to Rios Gulf would be modified regarding the firm's application for refund submitted in the Gulf refund proceeding. |
| May 8, 1992 | Texaco/Edward Gray Corporation, Chicago IL | RR321-113 | Request for modification/rescission in the Texaco refund proceeding. If granted: The December 21, 1990 Decision and Order (Case No. RF321-5193) issued to Edward Gray Corporation would be modified regarding the firm's application for refund submitted in the Texaco refund proceeding. |

REFUND APPLICATIONS RECEIVED

| Date received | Name of refund proceeding/name of refund application | Case no. |
|---------------------|--|-------------------------------|
| 5/1/92 thru 5/8/92. | Crude oil applications received. | RF272-92251 thru RF272-92293. |
| 5/1/92 thru 5/8/92. | Atlantic Richfield Applications received. | RF304-13022 thru RF304-13034. |
| 5/1/92 thru 5/8/92. | Gulf Oil Applications received. | RF300-19970 thru RF300-19999. |
| 5/4/92 | Sheppard Super 100. | RF342-204 |
| 5/4/92 | Energy Cooperative, Inc. | RF309-1424 |
| 5/4/92 | Chevron, U.S.A. | RF340-162 |
| 5/4/92 | Phillips Petroleum Company. | RF340-163 |
| 5/4/92 | Central Butane Gas Service. | RF340-164 |
| 5/4/92 | Macmillan Oil Company, Inc. | RF340-165 |
| 5/4/92 | Gas Service, Inc. | RF340-166 |

REFUND APPLICATIONS RECEIVED—Continued

| Date received | Name of refund proceeding/name of refund application | Case no. |
|---------------|--|-------------|
| 5/4/92 | Shelton Oil & Gas Company. | RF340-167 |
| 5/5/92 | Garland R. Woldt .. | RF342-205 |
| 5/5/92 | Suburban Propane. | RF340-168 |
| 5/5/92 | Petrolane Gas Service Ltd. | RF340-169 |
| 5/6/92 | AAA Butane | RF335-65 |
| 5/6/92 | A.J. Beninate & Sons, Inc. | RF321-18597 |
| 5/7/92 | South End Shell .. | RF315-10210 |
| 5/7/92 | Roger Fata's Super. | RF342-206 |
| 5/7/92 | Surber's Texaco .. | RF321-18598 |
| 5/8/92 | Pure Milk & Ice Cream Company. | RF343-9 |
| 5/8/92 | Chris' Clark Super "100". | RF342-207 |

REFUND APPLICATIONS RECEIVED—Continued

| Date received | Name of refund proceeding/name of refund application | Case no. |
|---------------|--|-------------|
| 5/8/92 | Chas Landry Grocery. | RF321-18599 |

[FR Doc. 92-12625 Filed 5-28-92; 8:45 am]

BILLING CODE 8450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[AMS-FRL-4138-1]

Final Documents; Information Regarding the Formulation and Emission Reduction Potential of Transportation Control Measures; Availability

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability.

SUMMARY: Information documents, regarding transportation control measures (TCMs), are currently available to the public.

DATES: The information documents will be available May 29, 1992.

ADDRESSES: The documents are available to Federal, State, and local governmental Agencies and may be requested from Ms. Norma Gray, Emission Control Strategies Branch, U.S. EPA National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan 48105. Phone: 313-741-7884, Fax: 313-668-4368. It is suggested that requests made by facsimile whenever possible. Copies of the documents will be available for public view in the National Vehicle and Fuel Emissions Laboratory Library, at the same address. The document will be available to non-governmental requesters through the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161. Phone: 703-487-4650.

FOR FURTHER INFORMATION CONTACT: Mr. Mark E. Simons, Emission Control Strategies Branch, U.S. EPA National Vehicle and Fuel Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, Michigan, 48105. Telephone: 313-668-4420. Fax: 313-668-4368.

SUPPLEMENTARY INFORMATION: Section 108(f) of the Clean Air Act Amendments of 1990 requires the Agency to "publish and make available information prepared as appropriate, in consultation with the Secretary of Transportation, and after providing public notice and opportunity for comment, regarding the formulation and emission reduction potential of transportation control measures related to criteria pollutants and their precursors." Public notice and opportunity to comment on drafts of the documents was provided via a notice of availability in the October 28, 1991 Federal Register.

These documents are designed to assist State and local officials in planning and evaluating transportation control measures. Information is

provided through discussions of implementation issues, variations of measures, degree of effectiveness, and institutional processes. More quantitative information is provided on current methods, strategies, and variables for making estimates on how transportation control measures affect the number of vehicle trips, vehicle miles traveled, and vehicle speed.

These documents should be viewed only as a source of information, and should not substitute for local and regional evaluation of TCMs. They should not limit consideration of other TCMs by local and State planners, nor should they be the sole basis for decisions on whether to advance or reject such measures. The Agency may from time to time revise, add to, or replace these guidance documents as new information becomes available.

Dated: May 20, 1992.

Michael Shapiro,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 92-12642 Filed 5-28-92; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-4137-6]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared May 11, 1992 through May 15, 1992 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260-5078.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 10, 1992 (57 FR 12499).

Draft EISs

ERP No. D-FHW-L50004-WA Rating EC2, Stillaguamish River Bridges WA-9/132 (Haller) and WA-530/120 (Lincoln) Bridge Replacement Project, Improvements, Funding, Section 404 Permit and Right-of-Way Acquisition, City of Arlington, Snohomish County, WA. SUMMARY: EPA had environmental concerns about the groundwater effects from spills, wetland impacts, and traffic noise increases. Additional information is needed on mitigation.

ERP No. D-GSA-D81019-DC Rating LO1, Southeast Federal Center Construction and Consolidation for the housing of the General Services

Administration and the Corp of Engineers Headquarter's Offices, Southeastern Quadrant of the Anacostia River, DC. SUMMARY: EPA believed that the document adequately covered the environmental impacts of the project. Overall, the project should have a beneficial effect on water quality. Due to contaminated soils on the site, caution must be taken during removal to prevent seepage into the Anacostia River. Design, methods to maximize the use of public mass transportation and/or reduce vehicle miles driven should be employed.

Final EISs

ERP No. F-AFS-K65049-CA, Sierra National Forest, Land and Resources Management Plan, Fresno, Madera and Mariposa Counties, CA. SUMMARY: EPA do not object to the proposed project.

ERP No. F-BLM-J65174-CO, Gunnison Resource Area, Resource Management Plan, Implementation, Montrose District, Hinsdale, Ouray, Gunnison, Saguache, and Montrose Counties, CO.

SUMMARY: EPA recommended that the grazing strategy include: (1) Livestock removal in early July to allow for regrowth, (2) summer limits on herbaceous forage to less than 40 to 50 percent of current growth, (3) limiting autumn use of stream-side vegetation to 30 percent with the stubble remaining at the end of the grazing season meeting the 4 to 6 inch stubble height criterion throughout the planning area, (4) limiting season-long grazing to areas with access control, such as special pasture areas; and (5) stubble heights greater than 6 inches in critical fishery habitats.

ERP No. F-COE-E35082-CA, Chattahoochee River National Recreation Area Sand Gravel Dredging, Section 404 Permit Issuance, Chattahoochee River, Gwinnett County, GA. SUMMARY: EPA recommended Alternative C3. It requires each permit application be given individual evaluation in a discrete public notice. If this alternative is selected dredging should not result in unacceptable environmental impacts.

ERP No. F-COE-K36096-CA, Hanson Dam Flood Control and Recreation Project, Construction, Operation, and Maintenance, San Gabriel Rivers, Los Angeles County, CA. SUMMARY: Review of the final EIS was not deemed necessary.

ERP No. F-FRC-L03005-00, Northwest Natural Gas Pipeline Expansion Project, Construction and Operation, Licensing, from points in Canada and the United States to Washington, Oregon, Idaho, Wyoming, Nevada and California, WA.

OR, ID, WY, NV and CA. SUMMARY: EPA endorsed a more rigorous analysis of alternatives to avoid and minimize wetland and aquatic habitat impacts. The effectiveness of mitigation measures needed to be discussed in more detail. The many high quality waters, that exceed state water quality standards, require an antidegradation analysis.

ERP No. F-UMT-B54006-MA, Old Colony Railroad Rehabilitation Project, Transit Improvements, Boston to Lakeville, Plymouth and Scituate, MA. SUMMARY: EPA expressed that the proposed project will fulfill the commitment established for the Boston Central Artery/Third Harbor Tunnel project for reestablishing commuter rail service to southeastern Massachusetts. EPA recommended that specific mitigation measures to avoid or offset adverse impacts of air quality and water supply resources be included in the Record of Decision. EPA also recommended close coordination with EPA during the Section 404 permitting process on further minimizing and mitigating impacts to wetlands.

Dated: May 26, 1992.

Marshall Cain,

Senior Legal Advisor, Office of Federal Activities.

[FR Doc. 92-12650 Filed 5-28-92; 8:45 am]

BILLING CODE 5560-50-M

[ER-FRL-4137-5]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 260-5076 OR (202) 260-5075. Availability of Environmental Impact Statements Filed May 18, 1992 Through May 22, 1992 Pursuant to 40 CFR 1506.9.

EIS No. 920183, DRAFT EIS, AFS, WA, Grouse Meadows Timber Sale and Road Construction, Implementation, Wenatchee National Forest, Naches Ranger District, Yakima, Due: July 13, 1992, Contact: Don Rotell (509) 653-2205.

EIS No. 920184, DRAFT EIS, AFS, NM, Hay Timber Sale, Timber Harvest and Road Construction, Implementation, Lincoln National Forest, Cloudcroft District, Otero County, NM, Due: June 29, 1992, Contact: Max Goodwin (505) 682-2551.

EIS No. 920185, DRAFT EIS, BLM, CA, Baltic Open-Pit Heap Leach Gold and Silver Mine Project, Construction and Operation, Plan of Operation, Reclamation Plan for Approval, and Conditional Use

Permit, Kern County, CA. Due: July 28, 1992, Contact: Peter Milne (619) 375-7125.

EIS No. 920186, FINAL EIS, NPS, MN, Voyageurs National Park, Wilderness Recommendations, Designation and Nondesignation, St. Louis and Koochiching Counties, MN, Due: June 29, 1992, Contact: Ben Clary (218) 283-9821.

EIS No. 920187, FINAL EIS, UAF, NM, Cannon Air Force Base Realignment, F/EF-111 Basing, Implementation, Curry County, NM, Due: June 29, 1992, Contact: Brenda Cook (804) 764-2909.

EIS No. 920188, FINAL SUPPLEMENT, AFS, ID, Accelerated Engelmann Spruce Harvest and Reforestation in Bruch Creek, Hendricks, Creek, and Copet Creek Salvage Timber Sales, Additional Information, Implementation, McCall Ranger District, Payette National Forest, Idaho and Valley Counties, ID, Due: June 29, 1992, Contact: Linda Fitch (206) 634-0400.

EIS No. 920189, FINAL EIS, FAA, IN, Indianapolis International Airport Master Plan Development, Construction and Operation, Runway 5L/23R Parallel to existing Runway 14/32 and connecting to Runways 5R/23L and 5L/23R, Airport Layout Plan Approval, Funding and Section 404 Permit, Marion County, IN, Due: June 29, 1992, Contact: Melissa Wishy (312) 694-7524.

EIS No. 920190, FINAL SUPPLEMENT, AFS, ID, Sunbeam Mining Project, Grouse Creek Gold and Silver Mines Plan of Development and Operation Modifications, Approval and COE Section 404 Permit, Custer County, ID, Due: June 29, 1992, Contact: Ken Rodgers (208) 838-2201.

EIS No. 920191, FINAL EIS, UAF, NJ, Boeing, Michigan Aeronautical Research Center (BOMARC) Missile Site, Radioactive Contamination Clean-Up Evaluation, McGuire Air Force Base, Plumsted Township, Ocean County, NJ, Due: June 29, 1992, Contact: Sharon Geil (618) 256-5764.

EIS No. 920192, FINAL EIS, NOA, ME, MA, RI, NY, DE, NH, CO, NY, PA, MD, VA, Summer Flounder Fishery Management Plan Amendment 2, Implementation, Exclusive Economic Zone (EEZ), ME, NH, MA, CO, RI, NY, NJ, PA, DE, MD, VA, Due: June 29, 1992, Contact: William W. Fox, Jr. (301) 713-2239.

EIS No. 920193, DRAFT SUPPLEMENT, USN, CA, P-202 Naval Air Station Alameda and P-082 Naval Supply

Center Oakland Dredging Projects, Additional Information, Site Designation, Implementation and Section 404 Permit, Alameda and Oakland Cities, San Francisco Bay, CA, Due: July 13, 1992, Contact: Tom Peeling (703) 325-7344.

EIS No. 920194, DRAFT EIS, FHW, LA, I-49 Connector, Evangeline Thruway US-90/US-167, Funding, Right-of-Way Acquisition and COE Section 10 and 404 Permits, Lafayette County, LA, Due: July 20, 1992, Contact: Robert E. Hollis (504) 389-0244.

EIS No. 920195, DRAFT EIS, SFW, IA, Walnut Creek National Wildlife Refuge and Prairie Learning Center Master Plan, Restoration and Reconstruction, Prairie, City, Jasper County, IA, Due: August 04, 1992, Contact: Richard M. Birger (515) 994-2415.

Amended Notices

EIS No. 920087, FINAL SUPPLEMENT, AFS, IL, Shawnee National Forest Land and Resource Management Plan, Amended Forest Plan and Updated Information, Implementation, Several Counties, IL, Due: June 29, 1992, Contact: Rodney K. Saller (618) 253-7114. Published FR 03-27-92—Comment Period Reopened.

Dated: May 26, 1992.

Marshall Cain,

Senior Legal Advisor, Office of Federal Activities.

[FR Doc. 92-12651 Filed 5-28-92; 8:45 am]

BILLING CODE 5510-50-M

[FRC 4137-9]

Science Advisory Board; Radiation Advisory Committee; High-Level Waste/Carbon-14 Release Subcommittee Open Meeting, June 16-17, 1992

Pursuant to the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the High-Level Waste/Carbon-14 Release Subcommittee of the Science Advisory Board's (SAB) Radiation Advisory Committee (RAC) will meet June 16-17, 1992 at the Howard Johnson Hotel, 2650 Jefferson Davis Highway in the Crystal City section of Arlington, Virginia. The Meeting will begin at 9:00 a.m. on June 16 and end no later than 4:30 p.m. on June 17. The meeting is open to the public and seating is limited.

Issue and Charge

At this meeting the Subcommittee begins its review of issues relating to the gaseous release of carbon-14 from high-level radioactive waste disposal. The review is expected to take three Subcommittee meetings, the other two are tentatively scheduled for August 3-4 and late September. The focus of this meeting will be presenting and understanding the scientific and technical information relating to the release of carbon-14. The charge for the review will be negotiated with the Subcommittee and is subject to change; the current charge follows:

The Charge

EPA is developing a generic analysis of the performance of geological repositories for disposal of high-level radioactive wastes which could fit a variety of potential sites, in order to determine what performance is technologically achievable. In 1985, the Agency's analysis generally did not address the release of radionuclides in the form of gases. The Office of Radiation Program's has developed a document which will be used as the basis for addressing such releases in the standard. In determining whether the document is scientifically adequate for regulatory decision making, we would like the Subcommittee to address the following questions.

1. *Radiochemistry/Inventory.* Carbon-14 is present in the waste; how—and how fast—carbon-14 is converted to carbon-14 dioxide gas (or other gases) may influence its release to the atmosphere. Does the Agency's document accurately summarize the total inventory of carbon-14 present and the fraction that could potentially be released from the repository via the air pathway?

2. *Causes of Physical Migration.* Does the Agency's document accurately characterize the mechanisms and release rates for gaseous carbon-14 from the wastes and canisters?

3. *Constraints on Physical Migration.* Does the Agency's document accurately describe the effectiveness of engineering barriers designed to reduce or impede releases?

4. *Modeling of Transport.* Does the Agency's document adequately describe the physical and chemical retardation and transport of carbon-14 from the waste repository to the surface?

5. *Calculated Release.* Is the Agency's assessment of the magnitude of the release resulting from the factors identified in questions #2, #3, #4 complete, correct, and clear?

6. *Uncertainty.* Does the Agency's document adequately describe the uncertainties associated with the assessment of the magnitude of the release?

The Subcommittee members were selected for scientific expertise relevant to the above issues, not for expertise in risk management decision-making, and the charge does not request advice on risk management issues. However, the Subcommittee or Committee may comment upon the individual and population doses resulting from such releases in the context of the Science Advisory Board's report, *Reducing Risk*.

Before becoming an approved SAB report, the Subcommittee's report must be presented to and approved by first the RAC (probably in November 1992) and then the SAB's Executive Committee (probably in January 1993). Single copies of the final SAB report will be available free of charge from the Science Advisory Board (A-101), U.S. EPA, 401 M Street SW., Washington DC 20460 [Telephone: 202/260-4126].

Availability of Documents

Copies of materials provided to the Subcommittee by the Agency, copies of materials provided to the Subcommittee by the public and draft reports prepared by the Subcommittee will be maintained in EPA Docket R-89-01. People wishing to obtain a list of materials sent to Docket #R-89-01 may call or write the Subcommittee Secretary, Mrs. Dorothy Clark (address and phone appear below). The EPA Central Docket is located at EPA Headquarters, 401 M Street SW., Washington, DC. Docket #R-89-01 will be available for public inspection and copying between 8 a.m. and 3 p.m. on weekdays. A reasonable fee may be charged for copying. Documents available in the docket are not available from the Science Advisory Board.

Opportunity for Public Comment

Although the SAB accepts both oral and written public comment, in this case it strongly urges the public to make its comments in writing so that the Subcommittee may refer back to them over the course of the review. (The SAB will not record or prepare a transcript of the public meetings.) Opportunities for public comment on this issue will also be provided at the subsequent Subcommittee meetings.

Written comments may be of any length, but commenters are required to provide at least 50 copies. Materials received by Mrs. Conway before May 29 will be mailed to the Subcommittee; materials which arrive later will be distributed at the meeting.

Total time for public comment will be limited to approximately two hours. If many requests are received, each individual or group making an oral presentation will be limited to five minutes. Members of the public who wish to make brief oral presentations to the Subcommittee should write or fax Mrs. Conway no later than noon Friday June 5. Requests for time for oral comment must include the name and affiliation of the speaker and the topic(s) to be addressed. Both an overhead projector and a 35 mm slide projector will be available. The SAB expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written comments.

For details concerning this meeting, including a draft agenda, please contact Mrs. Kathleen Conway or Mrs. Dorothy Clark, Science Advisory Board (A-101F), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Telephone 202/260-6552. Fax 202/260-7118.

Dated: May 18, 1992.

Donald G. Barnes,

Director, Science Advisory Board.

[FR Doc. 92-12643 Filed 5-28-92; 8:45 am]

BILLING CODE 6580-50-M

[OPP-36182; FRL 3998-2]

Comparative Analysis of Acute Avian Risk from Granular Pesticides

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: This Notice announces the availability of EPA's Comparative Analysis of Acute Avian Risk from Granular Pesticides. The analysis describes EPA's screening methodology for acute lethal risk to avian species from granular pesticides and lists the granular compounds that EPA believes may pose high risk to avian species.

ADDRESS: The Comparative Analysis of Acute Avian Risk from Granular Pesticides is available for public review from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays, at the Field Operations Division, rm. 1128, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: By mail: Margaret Rice, Special Review and Reregistration Division (H7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. Office location and telephone number: Crystal Station I, 3rd floor, 2800 Jefferson Davis

Highway, Arlington, VA, (703-308-8039). Photocopies are available by calling (703) 305-5805.

SUPPLEMENTARY INFORMATION:

I. Background

As a result of the initiation of the Special Review of granular carbofuran, both the House (H.R. 101-150) and Senate (S. 101-128) Appropriations Subcommittee Reports for FY 1990 urged EPA to develop "...an overall policy on granular pesticides...to place the ecological risk presented by [carbofuran and] other products in perspective."

In May 1991, EPA negotiated a phase-out of all major uses of granular carbofuran by 1994. The phase-out of granular carbofuran represents a significant reduction in avian risk; however, the question remains whether the alternatives to carbofuran or other granular pesticides also pose unreasonable risk to avian species.

II. Contents of the Analysis

A. Scope and Purpose of the Analysis

The Comparative Analysis of Acute Avian Risk from Granular Pesticides (Avian Granular Analysis or the analysis), is intended to describe EPA's avian risk screening methodology for granular pesticides and identify the granular pesticides that may pose high acute risk to birds. The methodology employed in the analysis has been peer reviewed by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel, an independent group of experts, and public comments were solicited in the proposed carbofuran decision in January 1989.

The analysis focuses on acute lethal risk to birds from granular pesticides, recognizing that this is only a part of the ecological risk picture. EPA focused on granular pesticides because of the distinct opportunity for exposure that they provide. Birds may be directly exposed to the pesticide by ingesting granules, thus consuming discrete doses of potentially lethal material.

The analysis is not intended to propose regulatory action. It is simply a risk assessment tool to compare acute lethal avian risk across granular pesticides and sites.

B. How the Analysis was Conducted

EPA looked at all active ingredients with at least one granular product, eliminated those that were not highly toxic to birds, and then eliminated those that were used in a manner such that birds would not be exposed to them.

EPA used application information on basic producer labels to calculate the

amount of toxicant available to wildlife. The label information included application rate, percent of active ingredient in the product applied, and the method of incorporating the granules into the soil.

Taking into account both the amount of toxicant available and the inherent toxicity of the chemicals, EPA constructed a risk index which is a ratio of these two factors (toxicity and exposure). The risk index is expressed as the number of LD50s per square foot. An LD50 is the amount of toxicant (in milligrams per kilogram of body weight) necessary to kill half of a test population. One square foot is used in this analysis, although any unit area could be used. The higher the number of LD50s per square foot, the greater the potential risk to birds.

EPA constructed risk indices for three common test species (mallard duck, bobwhite quail and red-winged blackbirds) on 21 representative crops and use sites.

Considering both toxicity and exposure, the granular pesticides identified in the Analysis as posing potentially high risk to birds are: aldicarb, bendiocarb, carbofuran, chlorpyrifos, diazinon, disulfoton, ethoprop, ethyl parathion, fenamiphos, fonofos, isofenphos, methomyl, phorate, and terbufos.

C. Characterizing Ecological Risk

EPA uses a weight-of-evidence approach in characterizing ecological risk. This approach considers not only the risk index, but also confirmatory field effects data in the form of field studies and bird kill incident reports. Confirmatory evidence of avian mortality from the granular formulation currently exists for 7 of the 14 chemicals: aldicarb, carbofuran, diazinon, disulfoton, isofenphos, phorate, and terbufos. Field effects data have not been fully evaluated for the screening analysis.

D. Conclusions of the Analysis

In the Avian Granular Analysis, EPA concludes that many of the registered uses of the 14 granular pesticides identified in the analysis result in concentrations of toxicant in the environment and available to birds at levels that can be lethally toxic.

III. Public Record

The Agency has established a public record (public docket OPP-36182/Avian) for the Avian Granular project. The public record includes:

1. This Notice.
2. The Comparative Analysis of Acute Avian Risk from Granular Pesticides.

3. Technical support materials and references for the Avian Granular Analysis.

4. Other correspondence and documents related to the Avian Granular project.

5. A current index of materials in the public docket.

Information for which a claim of confidential business information has been made will not be put in the public docket. The docket and index will be available for inspection and copying from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays, at the Field Operations Division, room 1128, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Dated: April 28, 1992.

Linda J. Fisher,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 92-12428 Filed 5-28-92; 8:45 am]

BILLING CODE 6560-50-F

[OPP-30336; FRL-4065-5]

Certain Companies; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by June 29, 1992.

ADDRESSES: By mail submit comments identified by the document control number [OPP-30336] and the registration/file number, attention Product Manager (PM) named in each application at the following address: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, rm. 1128, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with

procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in rm. 1128 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Registration Division (H7505C), Attn: (Product Manager (PM) named in each registration), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.

In person: Contact the PM named in each registration at the following office location/telephone number:

| Product Manager | Office location/ telephone number | Address |
|-----------------------|-----------------------------------|--|
| PM23 Joanne I. Miller | Rm. 237, CM #2 (703-305-7830). | Environmental Protection Agency 1921 Jefferson Davis Hwy Arlington, VA 22202 |
| PM 18 Phil Hutton | Rm. 213, CM #2 (703-305-7690). | -Do- |

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 100-TGG. Applicant: Ciba-Geigy Corporation, Agricultural Division, PO Box 18300, Greensboro, NC 27419. Product name: Agree Biological Insecticide. Insecticide. Active ingredient: *Bacillus thuringiensis* var. *aizawai* Strain GC-91 protein toxin 0.6 percent. Proposed classification/Use: None. For control of lepidopterus insect pests of certain fruits, vegetables, and nonfood crops. (PM 18)

2. File Symbol: 100-TGU. Applicant: Ciba-Geigy Corporation. Product name: Technical CGA-237218. Insecticide. Active ingredient: *Bacillus thuringiensis* var. *aizawai* Strain GC-91 protein toxin 0.12 percent. Proposed classification/

Use: None. For manufacturing use only. (PM 18)

3. File Symbol: 100-TEO. Applicant: Ciba-Geigy Corporation. Product name: Primo Turf Growth Regulator. Growth Regulator. Active ingredient: Cimectacarb 4-(cyclopropyl-alpha-hydroxy-methylene)-3,5-dioxo-cyclohexanecarboxylic acid ethyl ester 12.0 percent. Proposed classification/Use: None. For maintaining quality turfgrass areas such as residential and commercial lawns, golf courses, sod farms, and similar areas. (PM 23)

4. File Symbol: 100-TEI. Applicant: Ciba-Geigy Corporation. Product name: Vision Turf Growth Regulator. Growth Regulator. Active ingredient: Cimectacarb 4-(cyclopropyl-alpha-hydroxy-methylene)-3,5-dioxo-cyclohexanecarboxylic acid ethyl ester 22.8 percent. Proposed classification/Use: None. For use on roadsides, cemeteries, parks, institutional grounds, airports and other similar areas. (PM 23)

5. File Symbol: 352-LLL. Applicant: E. I. Du Pont de Nemours and Company, Agricultural Products, PO Box 80038, Wilmington, DE 19898. Product name: Muster Herbicide. Herbicide. Active ingredient: Methyl-2-[[[4-ethoxy-6-(methylamino)-1,3,5-triazin-2-yl]-amino]carbonyl]benzoate 76 percent. Proposed classification/Use: None. For selective or partial control of certain broadleaf weeds in canola. (PM 23)

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Fields Operation Division office at the address provided from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the FOD office (703-305-5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

Dated: May 19, 1992.

Anne E. Lindsay,
Director, Registration Division, Office of
Pesticide Programs.

[FR Doc. 92-12645 Filed 5-28-92; 8:45 am]
BILLING CODE 6560-50-F

[OPP-100110; FRL-4064-4]

Science Applications International Corporation; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Science Applications International Corporation (SAIC) has been awarded a contract to perform work for the EPA Office of Pesticide Programs (OPP), and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to SAIC consistent with the requirements of 40 CFR 2.307(h)(3) and 2.308(i)(2), and will enable SAIC to fulfill the obligations of the contract.

DATES: SAIC will be given access to this information no sooner than June 3, 1992.

FOR FURTHER INFORMATION CONTACT: By mail: Clare Grubbs, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 212, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305-7460.

SUPPLEMENTARY INFORMATION: Under Contract Number 68-C8-0062, Work Order Number 356, SAIC will assist OPP test the decision logic of instructions to registrants concerning the labeling requirements of the new Worker Protection Standards. This work order involves no subcontractor.

OPP has determined that the contract herein described involves work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this contract. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The

information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(i)(2), the contract with SAIC prohibits use of the information for any purpose other than purposes specified in the contract; prohibits disclosure of the information in any form to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, SAIC is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Work Assignment Manager for this contract in OPP. All information supplied to SAIC by EPA for use in connection with this contract will be returned to EPA when SAIC has completed its work.

Dated: May 18, 1992.

Douglas D. Camp, Jr.
Director, Office of Pesticide Programs.

[FR Doc. 92-12644 Filed 5-28-92; 8:45 am]

BILLING CODE 6560-50-F

[OPP-100107; FRL-4064-3]

Computer Sciences Corporation; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Computer Sciences Corporation (CSC) has been awarded a contract to perform work for the EPA Office of Compliance Monitoring (OCM), and will be provided access to certain information submitted to EPA under FIFRA and FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to CSC consistent with the requirements of 40 CFR 2.307(h)(3) and 2.308(h)(2), and will enable CSC to fulfill the obligations of the contract.

DATES: CSC will be given access to this information no sooner than June 3, 1992.

FOR FURTHER INFORMATION CONTACT: By mail: Clare Grubbs, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 212, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305-7460.

SUPPLEMENTARY INFORMATION: Under Contract Number 68-W0-0043, Work Order Number 481, CSC will provide general programming support for the Section Seven Tracking System (SSTS) for OCM. CSC will assist in the overall maintenance of the database which will include debugging and enhancing it as well as responding to user requests for ad hoc reports. This contract involves no subcontractor.

OCM and the Office of Pesticide Programs have determined that access by CSC to information on all pesticide chemicals is necessary for the performance of this contract. Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with CSC prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information in any form to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, CSC is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Delivery Order Project Officer for this contract in OCM. All information supplied to CSC by EPA for use in connection with this contract will be returned to EPA when CSC has completed its work.

Dated: May 18, 1992.

Douglas D. Camp, Jr.
Director, Office of Pesticide Programs.

[FR Doc. 92-12646 Filed 5-28-92; 8:45 am]

BILLING CODE 6560-50-F

[OPP-100107; FRL-4062-9]

Computer Science Corporation and Dynamac Corporation; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Computer Sciences Corporation (CSC) and its subcontractor Dynamac Corporation has been awarded a contract to perform work for the EPA Office of Pesticide Programs (OPP), and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to CSC and Dynamac Corporation consistent with the requirements of 40 CFR 2.307(h)(3) and 2.308(h)(2), to enable CSC and Dynamac Corporation to fulfill the obligations of the contract.

DATES: CSC and Dynamac Corporation will be given access to this information no sooner than June 3, 1992.

FOR FURTHER INFORMATION CONTACT: By mail: Clare Grubbs, Program Management and Support Division (H7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 212, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305-7460.

SUPPLEMENTARY INFORMATION: Under Contract Number 68-W0-0043, Work Order Number 443, CSC and Dynamac Corporation will assist OPP to extract, compile, analyze, and standardize use pattern information derived from registered pesticide product labeling and to enter this information into the EPA OPP Label Use Information System database. Dynamac Corporation will also maintain the automated Commodity/Chemical Tolerance file and will assist in enhancing the repertoire of reports generated from these two databases as well as integrating them with the other existing OPP database systems.

OPP has determined that access by CSC and Dynamac Corporation to information on all pesticide chemicals is necessary to the performance of this contract. Some of this information may be entitled to confidential treatment.

The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with CSC and Dynamac Corporation prohibits use of the information for any purpose other than purposes specified in the contract; prohibits disclosure of the information in any form to a third party without prior written approval from the Agency; and requires that each official and employee of the contractors sign an agreement to protect the information from unauthorized release and to handle it in accordance with the FIFRA Information Security Manual. In addition, CSC and Dynamac Corporation are required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to these contractors until the above requirements have been fully satisfied. Records of information provided to these contractors will be maintained by the Work Assignment Manager for this contract in OPP. All information supplied to CSC and Dynamac Corporation by EPA for use in connection with this contract will be returned to EPA when CSC and Dynamac Corporation has completed its work.

Dated: May 18, 1992.

Douglas D. Camp, Jr.
Director, Office of Pesticide Programs.

[FR Doc. 92-12647 Filed 5-28-92; 8:45 am]

BILLING CODE 6500-50-F

[OPP-60034; FRL-4067-6]

Intent to Suspend Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of issuance of notices of intent to suspend.

SUMMARY: This Notice, pursuant to section 6(f)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 et seq., announces that EPA has issued Notices of Intent to Suspend pursuant to sections 3(c)(2)(B) and 4 of FIFRA. The Notices were issued following issuance of Section 4 Reregistration Requirements Notices by the Agency and the failure of registrants subject to the Section 4 Reregistration Requirements Notices to take appropriate steps to secure the data required to be submitted to the Agency. This Notice includes the text of a Notice of Intent to Suspend, absent specific

chemical, product, or factual information. Table A of this Notice further identifies the registrants to whom the Notices of Intent to Suspend were issued, the date each Notice of Intent to Suspend was issued, the active ingredient(s) involved, and the EPA registration numbers and names of the registered product(s) which are affected by the Notices of Intent to Suspend. Moreover, Table B of this Notice identifies the basis upon which the Notices of Intent to Suspend were issued. Finally, matters pertaining to the timing of requests for hearing are specified in the Notices of Intent to Suspend and are governed by the deadlines specified in section 3(c)(2)(B). As required by section 6(f)(2), the Notices of Intent to Suspend were sent by certified mail, return receipt requested, to each affected registrant at its address of record.

FOR FURTHER INFORMATION CONTACT: Stephen L. Brozena, Office of Compliance Monitoring (EN-342), Laboratory Data Integrity Assurance Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (703) 308-8267.

SUPPLEMENTARY INFORMATION:

I. Text of a Notice of Intent to Suspend

The text of a Notice of Intent to Suspend, absent specific chemical, product, or factual information, follows:

United States Environmental Protection Agency

Office of Prevention, Pesticides, and Toxic Substances

Washington, DC 20460

Certified Mail

Return Receipt Requested

SUBJECT: Suspension of Registration of Pesticide Product(s) Containing _____ for Failure to Comply with the Section 4 Phase 5 Reregistration Eligibility Document Data Call-In Notice for _____ Dated _____

Dear Sir/Madam:

This letter gives you notice that the pesticide product registrations listed in Attachment I will be suspended 30 days from your receipt of this letter unless you take steps within that time to prevent this Notice from automatically becoming a final and effective order of suspension. The Agency's authority for suspending the registrations of your products is sections 3(c)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Upon becoming a final and effective order of suspension, any violation of the order will be an unlawful act under section 12(a)(2)(J) of FIFRA.

You are receiving this Notice of Intent to Suspend because you have failed to comply with the terms of the Phase 5 Registration Eligibility Document Data Call-In Notice imposed pursuant to section 4(g)(2)(b) and section (3)(2)(B) of FIFRA.

The specific basis for issuance of this Notice is stated in the Explanatory Appendix (Attachment III) to this Notice. Affected products and the requirements which you failed to satisfy are listed and described in the following three attachments:

Attachment I Suspension Report - Product List

Attachment II Suspension Report - Requirement List

Attachment III Suspension Report - Explanatory Appendix

The suspension of the registration of each product listed in Attachment I will become final unless at least one of the following actions is completed.

1. You may avoid suspension under this Notice if you or another person adversely affected by this Notice properly request a hearing within 30 days of your receipt of this Notice. If you request a hearing, it will be conducted in accordance with the requirements of section 6(d) of FIFRA and the Agency's procedural regulations in 40 CFR part 164.

Section 3(c)(2)(B), however, provides that the only allowable issues which may be addressed at the hearing are whether you have failed to take the actions which are the bases of this Notice and whether the Agency's decision regarding the disposition of existing stocks is consistent with FIFRA. Therefore, no substantive allegation or legal argument concerning other issues, including but not limited to the Agency's original decision to require the submission of data or other information, the need for or utility of any of the required data or other information or deadlines imposed, and the risks and benefits associated with continued registration of the affected product, may be considered in the proceeding. The Administrative Law Judge shall by order dismiss any objections which have no bearing on the allowable issues which may be considered in the proceeding.

Section 3(c)(2)(B)(iv) of FIFRA provides that any hearing must be held and a determination issued within 75 days after receipt of a hearing request. This 75-day period may not be extended unless all parties in the proceeding stipulate to such an extension. If a hearing is properly requested, the Agency will issue a final order at the conclusion of the hearing governing the suspension of your products.

A request for a hearing pursuant to this Notice must (1) include specific objections which pertain to the allowable issues which may be heard at the hearing, (2) identify the registrations for which a hearing is requested, and (3) set forth all necessary supporting facts pertaining to any of the objections which you have identified in your request for a hearing. If a hearing is requested by any person other than the registrant, that person must also state specifically why he asserts that he would be adversely affected by the suspension action described in this Notice. Three copies of the request must be submitted to: Hearing Clerk, A-110, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, and an additional copy should be sent to the signatory listed below. The request must be received by the Hearing Clerk by the 30th day from your receipt of this Notice in order to be legally effective. The 30-day time limit is established by FIFRA and cannot be extended for any reason. Failure to meet the 30-day time limit will result in automatic suspension of your registration(s) by operation of law and, under such circumstances, the suspension of the registration for your affected product(s) will be final and effective at the close of business 30 days after your receipt of this Notice and will not be subject to further administrative review.

The Agency's Rules of Practice at 40 CFR 164.7 forbid anyone who may take part in deciding this case, at any stage of the proceeding, from discussing the merits of the proceeding *ex parte* with any party or with any person who has been connected with the preparation or presentation of the proceeding as an advocate or in any investigative or expert capacity, or with any of their representatives. Accordingly, the following EPA offices, and the staffs thereof, are designated as judicial staff to perform the judicial function of EPA in any administrative hearings on this Notice of Intent to Suspend: The Office of the Administrative Law Judges, the Office of the Judicial Officer, the Administrator, the Deputy Administrator, and the members of the staff in the immediate offices of the Administrator and Deputy Administrator. None of the persons designated as the judicial staff shall have any *ex parte* communication with

trial staff or any other interested person not employed by EPA on the merits of any of the issues involved in this proceeding, without fully complying with the applicable regulations.

2. You may also avoid suspension if, within 30 days of your receipt of this Notice, the Agency determines that you have taken appropriate steps to comply with the section 4 Phase 5 Reregistration Eligibility Document Data Call-In Notice requirements. In order to avoid suspension under this option, you must satisfactorily comply with Attachment II, Requirement List, for each product by submitting all required supporting data/information described in Attachment II and in the Explanatory Appendix (Attachment III) to the following address (preferably by certified mail):

Office of Compliance Monitoring (EN-342), Laboratory Data Integrity Assurance Division, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

For you to avoid automatic suspension under this Notice, the Agency must also determine within the applicable 30-day period that you have satisfied the requirements that are the bases of this Notice and so notify you in writing. You should submit the necessary data/information as quickly as possible for there to be any chance the Agency will be able to make the necessary determination in time to avoid suspension of your product(s).

The suspension of the registration(s) of your company's product(s) pursuant to this Notice will be rescinded when the Agency determines you have complied fully with the requirements which were the bases of this Notice. Such compliance may only be achieved by submission of the data/information described in the attachments to the signatory below.

Your product will remain suspended, however, until the Agency determines you are in compliance with the requirements which are the bases of this Notice and so informs you in writing.

After the suspension becomes final and effective, the registrant subject to this Notice, including all supplemental registrants of product(s) listed in Attachment I, may not legally distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer

to deliver, to any person, the product(s) listed in Attachment I.

Persons other than the registrant subject to this Notice, as defined in the preceding sentence, may continue to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I.

Nothing in this Notice authorizes any person to distribute, sell, use, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person, the product(s) listed in Attachment I in any manner which would have been unlawful prior to the suspension.

If the registrations of your products listed in Attachment I are currently suspended as a result of failure to comply with another section 4 Data Requirements Notice or section 3(c)(2)(B) Data Call-In Notice, this Notice, when it becomes a final and effective order of suspension, will be in addition to any existing suspension, i.e., all requirements which are the bases of the suspension must be satisfied before the registration will be reinstated.

You are reminded that it is your responsibility as the basic registrant to notify all supplementary registered distributors of your basic registered product that this suspension action also applies to their supplementary registered products and that you may be held liable for violations committed by your distributors. If you have any questions about the requirements and procedures set forth in this suspension notice or in the subject section 4 Data Requirements Notice, please contact Stephen L. Brozena at (703) 308-8267. Sincerely yours,

Director, Office of Compliance Monitoring

Attachments:

Attachment I - Product List

Attachment II - Requirement List

Attachment III - Explanatory Appendix

II. Registrants Receiving and Affected by Notices of Intent to Suspend; Date of Issuance; Active Ingredient and Products Affected

The following is a list of products for which a letter of notification has been sent:

TABLE A.—LIST OF PRODUCTS

| Registrant Affected | EPA Registration Number | Active Ingredient | Name of Product | Date Issued |
|---------------------|-------------------------|------------------------|---------------------------------------|-------------|
| D-Con Company Inc. | 00328200003 | Warfarin/Warfarin Salt | D-Con Concentrate Kills Rats and Mice | 5/8/92 |

TABLE A.—LIST OF PRODUCTS—Continued

| Registrant Affected | EPA Registration Number | Active Ingredient | Name of Product | Date Issued |
|--|-------------------------|------------------------|--|-------------|
| | 00328200004 | Warfarin/Warfarin Salt | D-Con Ready Mixed Kills Rats and Mice | 5/8/92 |
| | 00328200009 | Warfarin/Warfarin Salt | D-Con Mouse Pruff Kills Mice | 5/8/92 |
| | 00328200015 | Warfarin/Warfarin Salt | D-Con Pellets Kills Rats and Mice | 5/8/92 |
| E-Z Products Company | 05617600001 | Warfarin/Warfarin Salt | Nu-Bro Rat A Tac | 5/8/92 |
| Ferret Laboratories Inc. | 00638300001 | Warfarin/Warfarin Salt | Ferret Rodenticide | 5/8/92 |
| Jack M. Clark, Inc. | 00058400005 | Warfarin/Warfarin Salt | DDX Warfarin Mixed Ready-to-Use Special Blend PX 543 | 5/8/92 |
| Mackwin Company | 00099500041 | Warfarin/Warfarin Salt | Ratorex with Prolin | 5/8/92 |
| Perk Products and Chemical Company, Inc. | 00069000032 | Warfarin/Warfarin Salt | Perkerson's Rat-End | 5/8/92 |
| R & M Exterm Inc. | 00427100007 | Warfarin/Warfarin Salt | Rat and Mouse Killer | 5/8/92 |
| RMC Products Company | 00727600011 | Warfarin/Warfarin Salt | RMC Super Bar | 5/8/92 |

III. Basis for Issuance of Notice of Intent; Requirement List

The following companies failed to submit the following required data or information:

TABLE B.—REQUIREMENT LIST

| Active Ingredient | Registrant Affected | Requirement Name | Guideline Reference No. | Original Due-Date |
|------------------------|--|--|-------------------------|-------------------|
| Warfarin/Warfarin Salt | Jack M. Clark, Inc. | Confidential Statement of Formula (CSF) Form | | 2/26/92 |
| | | Confidential Statement of Formula (CSF) Form | | 2/26/92 |
| | Perk Products and Chemical Company, Inc. | Chemical Identity | 61-1 | 2/26/92 |
| | | Beginning Materials & Manufacturing Process | 61-2 | 2/26/92 |
| | | Preliminary Analysis of Product Samples | 62-1 | 2/26/92 |
| | | Certification of Ingredient Limits | 62-2 | 2/26/92 |
| | | Analytical Method to Verify Certified Limits | 62-3 | 2/26/92 |
| | | Color | 63-2 | 2/26/92 |
| | | Physical State | 63-3 | 2/26/92 |
| | | Odor | 63-4 | 2/26/92 |
| | | Density, Bulk Density, or Specific Gravity | 63-7 | 2/26/92 |
| | | Storage Stability | 63-17 | 2/26/92 |
| | | Corrosion Characteristics | 63-20 | 2/26/92 |
| | | Commensal Rodenticides | 96-10 | 2/26/92 |
| | Mackwin Company | Confidential Statement of Formula (CSF) Form | | 2/26/92 |
| | | Commensal Rodenticides | 96-10 | 2/26/92 |
| | D-Con Company Inc. | Confidential Statement of Formula (CSF) Form | | 2/26/92 |
| | | Chemical Identity | 61-1 | 2/26/92 |
| | | Beginning Materials & Manufacturing Process | 61-2 | 2/26/92 |
| | | Preliminary Analysis of Product Samples | 62-1 | 2/26/92 |
| | | Certification of Ingredient Limits | 62-2 | 2/26/92 |
| | | Analytical Method to Verify Certified Limits | 62-3 | 2/26/92 |
| | | Color | 63-2 | 2/26/92 |
| | | Physical State | 63-3 | 2/26/92 |
| | | Odor | 63-4 | 2/26/92 |
| | | Density, Bulk Density, or Specific Gravity | 63-7 | 2/26/92 |
| | | Storage Stability | 63-17 | 2/26/92 |
| | | Corrosion Characteristics | 63-20 | 2/26/92 |
| | | Commensal Rodenticides | 96-10 | 2/26/92 |
| | R & M Exterm Inc. | Confidential Statement of Formula (CSF) Form | | 2/26/92 |

TABLE B.—REQUIREMENT LIST—Continued

| Active Ingredient | Registrant Affected | Requirement Name | Guideline Reference No. | Original Due-Date |
|-------------------|--------------------------|--|-------------------------|-------------------|
| | Ferret Laboratories Inc. | Confidential Statement of Formula (CSF) Form | | 2/26/92 |
| | | Chemical Identity | 61-1 | 2/26/92 |
| | | Beginning Materials & Manufacturing Process | 61-2 | 2/26/92 |
| | | Preliminary Analysis of Product Samples | 62-1 | 2/26/92 |
| | | Certification of Ingredient Limits | 62-2 | 2/26/92 |
| | | Analytical Method to Verify Certified Limits | 62-3 | 2/26/92 |
| | | Color | 63-2 | 2/26/92 |
| | | Physical State | 63-3 | 2/26/92 |
| | | Odor | 63-4 | 2/26/92 |
| | | Density, Bulk Density, or Specific Gravity | 63-7 | 2/26/92 |
| | | Storage Stability | 63-17 | 2/26/92 |
| | | Corrosion Characteristics | 63-20 | 2/26/92 |
| | E-Z Products Company | Chemical Identity | 61-1 | 2/26/92 |
| | | Beginning Materials & Manufacturing Process | 61-2 | 2/26/92 |
| | | Preliminary Analysis of Product Samples | 62-1 | 2/26/92 |
| | | Certification of Ingredient Limits | 62-2 | 2/26/92 |
| | | Analytical Method to Verify Certified Limits | 62-3 | 2/26/92 |
| | | Color | 63-2 | 2/26/92 |
| | | Physical State | 63-3 | 2/26/92 |
| | | Odor | 63-4 | 2/26/92 |
| | | Density, Bulk Density, or Specific Gravity | 63-7 | 2/26/92 |
| | | Storage Stability | 63-17 | 2/26/92 |
| | | Corrosion Characteristics | 63-20 | 2/26/92 |
| | | Confidential Statement of Formula (CSF) Form | | 2/26/92 |
| | | Commensal Rodenticides | 96-10 | 2/26/92 |
| | RMC Products Company | Confidential Statement of Formula (CSF) Form | | 2/26/92 |
| | | Beginning Materials & Manufacturing Process | 61-2 | 2/26/92 |
| | | Preliminary Analysis of Product Samples | 62-1 | 2/26/92 |
| | | Certification of Ingredient Limits | 62-2 | 2/26/92 |
| | | Analytical Method to Verify Certified Limits | 62-3 | 2/26/92 |
| | | Color | 63-2 | 2/26/92 |
| | | Physical State | 63-3 | 2/26/92 |
| | | Odor | 63-4 | 2/26/92 |
| | | Density, Bulk Density, or Specific Gravity | 63-7 | 2/26/92 |
| | | Storage Stability | 63-17 | 2/26/92 |
| | | Corrosion Characteristics | 63-20 | 2/26/92 |
| | | Commensal Rodenticides | 96-10 | 2/26/92 |

IV. Attachment III Suspension Report—Explanatory Appendix

A discussion of the basis for the Notice of Intent to Suspend follows:

On June 6, 1991, EPA issued the Phase 5 Reregistration Data Requirements Notice imposed pursuant to section 4 of FIFRA which required registrants of products containing warfarin to develop and submit certain data. These data were determined to be necessary to satisfy reregistration data requirements of section 4(g)(2)(B). Failure to comply with the requirements of a Phase 5 Reregistration Eligibility Document Data Call-In Notice is a basis for suspension under sections 3(c)(2)(B) and 4(g)(2)(B) of FIFRA.

The Warfarin Phase 5 Reregistration Data Requirements Notice dated June 6, 1991, required each affected registrant to submit materials relating to the election of the options to address each of the data requirements. That submission was required to be received by the Agency within 90 days of the registrant's receipt of the Notice. The Agency received a response from you in which you committed to undertake the required testing. The Notice further required that data be submitted by deadlines noted for the subject data requirements on Attachment II. These deadlines have passed and to date the Agency has not received adequate data to satisfy these data requirements. Because you have failed to provide an appropriate or

adequate response within the time provided for data requirements listed on Attachment II, the Agency is issuing this Notice of Intent to Suspend.

V. Conclusions

EPA has issued Notices of Intent to Suspend on the dates indicated. Any further information regarding these Notices may be obtained from the contact person noted above.

Dated: May 20, 1992.

Michael M. Stahl,
Director, Office of Compliance Monitoring.

[FR Doc. 92-12427 Filed 5-28-92; 8:45 am]

BILLING CODE 5580-50-F

[OPP-34029; FRL-4065-2]

Pesticide Reregistration Eligibility Document for Heptachlor; Availability for Comment**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of availability.

SUMMARY: This Notice announces the availability of the final Reregistration Eligibility Document (RED) for Heptachlor and the establishment of a public comment period. The RED is the Agency's formal regulatory assessment of the health and environmental data base for Heptachlor and presents the Agency's determination regarding which uses of Heptachlor are eligible for reregistration.

DATES: Written comments on the Heptachlor RED must be submitted by July 28, 1992.

ADDRESSES: Three copies of comments identified with the docket number (OPP-34029) should be submitted by mail to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 1128, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment in response to this Notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public docket. Information not marked confidential will be included in the public docket without prior notice. The public docket and docket index will be available for public inspection in rm. 1128 at the Virginia address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: George LaRocca, Product Manager-13, for questions concerning product-specific data and labeling requirements for Heptachlor products at (703) 305-6100, and Herman T. Toma, for questions on the generic database at (703) 308-8055. To request a copy of the Reregistration Eligibility Document or a RED Fact Sheet for Heptachlor, contact the Public Response and Program Resources Branch, in Rm 1128 at the Virginia address given above at (703) 305-5805).

SUPPLEMENTARY INFORMATION: The Agency has issued a final Reregistration Eligibility Document for Heptachlor. Under the provisions of the Federal Insecticide, Fungicide and Rodenticide Act, as amended in 1988, EPA is conducting an accelerated reregistration program to reevaluate most existing pesticides to make sure they meet current scientific and regulatory standards. Registered uses of Heptachlor to control fire ants in enclosed power cable boxes are eligible for reregistration. Other uses of Heptachlor, which include termiticidal uses and uses for export only, are not eligible for reregistration. All registrants of Heptachlor have been sent the RED and must respond to the labeling requirements within 8 months of receipt. The 60-day public comment period does not affect the registrant's response due date.

EPA is issuing the Heptachlor RED as a final document with a 60-day comment period. The reregistration program is being conducted under Congressionally mandated time frames, and EPA is mindful of the need to make both timely reregistration decisions and involve the public. Although it does not affect the registrants' response due date, the 60-day public comment period provides an opportunity for public input and a mechanism for initiating any necessary amendments to the RED.

Dated: May 18, 1992.

Daniel M. Barolo,
Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 92-12429 Filed 5-28-92; 8:45 am]

BILLING CODE 6560-50-F

[OPP-42069A; FRL-4060-3]

Approval of Amendment to State Certification Plan to Certify Applicators of Compound 1080 Livestock Protection Collars**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of approval of amendment to State Plan.

SUMMARY: In the Federal Register of February 20, 1992, EPA announced its intent to approve the amendment to the South Dakota State Pesticide Certification Plan to allow for the certification of Compound 1080 Livestock Protection Collar applicators. EPA hereby announces final approval of this plan.

ADDRESSES: Copies of the amendment are available for review at the following locations during normal business hours.

1. South Dakota Department of Agriculture, Division of Regulatory Services, 445 East Capitol, Pierre, SD 57501, Telephone: (605) 773-3724.
2. Pesticides and Toxic Substances Branch, Air and Toxics Division, Region VIII, Environmental Protection Agency, 999 18th St., Suite 500, Denver, CO 80202, Telephone: (303) 293-1743.

FOR FURTHER INFORMATION CONTACT:

Ron Schiller, Pesticides and Toxic Substances Branch (6T-504), Region VIII, Environmental Protection Agency, 999 18th St., Suite 500, Denver, CO 80202, Telephone: (303) 293-1743.

SUPPLEMENTARY INFORMATION: In the Federal Register of February 20, 1992 (57 FR 6110), EPA announced its intent to approve the amendment to the South Dakota State Pesticide Certification Plan to allow for the certification of Compound 1080 Livestock Protection Collar applicators. Interested parties were given 30 days to comment. No comments were received.

EPA therefore grants final approval of the South Dakota Department of Agriculture Amendment to the State Pesticide Certification Plan.

Dated: May 20, 1992.

Jack W. McGraw,-

Acting Regional Administrator, Region VIII.

[FR Doc. 92-12430 Filed 5-28-92; 8:45 am]

BILLING CODE 6560-50-F

[OPPTS-62118; FRL-4064-1]

Accredited Training Programs Under the Asbestos Hazard Emergency Response Act (AHERA)**AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice of Availability of National Directory.

SUMMARY: Effective May 29, 1992, the EPA is announcing the availability of a new edition of its National Directory of AHERA Accredited Courses (NDAAC). This publication, updated quarterly, provides information to the public about training providers and courses approved for accreditation purposes pursuant to the Asbestos Hazard Emergency Response Act (AHERA). As a nationwide listing of approved asbestos training programs and courses, the NDAAC has replaced the similar listing which was formerly published quarterly by EPA in the Federal Register. The May 29, 1992, directory, which supersedes the version released on February 28, 1992, may be ordered through the NDAAC Clearinghouse along with a variety of related reports.

ADDRESSES: Parties interested in receiving a brochure which describes the national directory and provides ordering information should contact: NDAAC Clearinghouse, c/o ATLAS Federal Services, 6011 Executive Blvd., Rockville, MD 20852, Telephone: (301) 984-1929.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: Pursuant to AHERA, contractors who inspect or prepare management plans, or design or conduct response actions with respect to friable asbestos-containing materials in schools, are required to obtain accreditation by completing prescribed training requirements. EPA therefore maintains a current national listing of AHERA-accredited courses and approved training providers so that this information will be readily available to assist the public in accessing these training programs and obtaining the necessary accreditation. The information is also maintained so that the Agency and approved state accreditation and licensing programs will have a reliable means of identifying and verifying the approval status of training courses and organizations.

Previously, EPA had published this listing in the *Federal Register* on a quarterly basis. The last *Federal Register* listing required by law was published on August 30, 1991 (56 FR 43064). EPA recognized the need to continue publication of this document even though the legislative mandate had expired. The NDAAC fulfills the public need for this information while at the same time, it reduces EPA cost and improves the service's capabilities.

Dated: May 6, 1992.

Mark A. Greenwood,
Director, Office of Pollution Prevention and Toxics.

[FR Doc. 92-12192 Filed 5-28-92; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB For Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and

approval under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a request for OMB review of the information collection system described below.

Type of Review: Revision of a currently approved collection.

Title: Consolidated Reports of Condition and Income (Insured State Nonmember Commercial and Savings Banks).

Form Number: FFIEC 031, 032, 033, 034.

OMB Number: 3064-0052.

Expiration Date of OMB Clearance: February 28, 1995.

Respondents: Insured state nonmember commercial and savings banks.

Frequency of Response: Quarterly.

Number of Respondents: 7,740.

Number of Responses Per Respondent: 4.

Total Annual Responses: 30,960.

Average Number of Hours Per Response: 23.55.

Total Annual Burden Hours: 729,093.

OMB Reviewer: Gary Waxman, (202) 395-7340, Office of Management and Budget, Paperwork Reduction Project 3064-0052, Washington, DC 20503.

FDIC Contact: Steven F. Hanft, (202) 898-3907, Office of the Executive Secretary, room F-400, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

COMMENTS: Comments on this collection of information are welcome and should be submitted before July 28, 1992.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed above. Comments regarding the submission should be addressed to both the OMB reviewer and the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: This revision to the Consolidated Reports of Condition and Income (Insured State Nonmember Commercial and Savings Banks) implements a recently enacted statutory amendment to the Federal Deposit Insurance Act requiring that each insured state nonmember bank include with its report of condition a report of any extensions of credit made by the bank to its executive officers since the bank filed its last report of condition. This reporting requirement becomes effective May 18, 1992; the first required report should therefore be

included with the June 30, 1992 report of condition.

Dated: May 22, 1992.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc 92-12549 Filed 5-28-92; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

Intent To Cancel Tariffs of Common Carriers by Water and To Suspend Licenses of Ocean Freight Forwarders; for Failure To File Anti-Rebate Certifications

The Federal Maritime Commission's regulations at 46 CFR 582.1(a) and 582.3(a) require every common carrier by water and ocean freight forwarder in the foreign commerce of the United States to file an anti-rebate certification by December 31 of each year.

Notice is given that the common carriers by water shown in Part A of the attached list have not filed the anti-rebate certification which was due on or before December 31, 1991. Consequently, these firms were notified by certified mail dated and mailed on May 15, 1992, that, if within 45 days of the date of such notice, they have not either filed an anti-rebate certification or established that it had been filed, their tariffs would be cancelled in accordance with 46 CFR 580.5(c)(2)(ii)(B).

Notice is further given that the ocean freight forwarders shown in Part B of the attached list have not filed the anti-rebate certification which was due on or before December 31, 1991. Consequently, these firms were notified by certified mail dated and mailed on May 15, 1992, that, if within 45 days of the date of such notice, they have not either filed an anti-rebate certification or established that it had been filed, their licenses would be suspended in accordance with 46 CFR 510.16(a)(6). This suspension shall remain in effect until such time as the license is reinstated by the Commission after an anti-rebate certification is filed.

Notice is further given that those firms that are both common carriers by water and ocean freight forwarders shown in Part C of the attached list have not filed the anti-rebate certification which was due on or before December 31, 1991. Consequently, these firms were notified by certified mail dated and mailed on May 15, 1992, that, if within 45 days of the date of such notice, they have not either filed an anti-rebate certification or established that it had been filed, their tariffs would be cancelled in accordance with 46 CFR 580.5(c)(2)(ii)(B).

and their licenses would be suspended in accordance with 46 CFR 510.16(a)(6). This suspension shall remain in effect until such time as the license is reinstated by the Commission after an anti-rebate certification is filed.

Firms filing the anti-rebate certification during the 45-day notice period will not have their tariffs cancelled or licenses suspended, but may be subject to a civil penalty of up to \$5,000 for each day the firm was in violation.

Bryant L. VanBrakle,
Director, Bureau of Tariffs, Certification and Licensing.

Bureau of Tariffs, Certification and Licensing Office of Tariffs

Part A: Common Carriers by Water in the Foreign Commerce of the United States That Have Not Filed Anti-Rebate Certifications

Acronym: A. Bottacchi S.A. De Navegacion CFII
DBA Name: A. Bottacchi (S.A.) Inc.
Organization No: 008540
Acronym: A.C.P. (Shipping Agents) Ltd.
DBA Name: NA.
Organization No: 010701
Acronym: AB Scanfreight
DBA Name: NA.
Organization No: 008897
Acronym: Accord Container Line (U.S.A.) Inc.
DBA Name: NA.
Organization No: 009431
Acronym: Afram Lines (CCAS), Ltd.
DBA Name: NA.
Organization No: 006193
Acronym: Afram Lines (International), Inc.
DBA Name: NA.
Organization No: 007145
Acronym: Afram Lines Ltd.
DBA Name: NA.
Organization No: 00171
Acronym: African Bulk Services Inc.
DBA Name: NA.
Organization No: 009711
Acronym: AFS Freight Management (HK) Ltd.
DBA Name: NA.
Organization No: 009958
Acronym: Air & Sea Pak Company
DBA Name: NA.
Organization No: 000179
Acronym: All Caribbean Services, Inc.
DBA Name: NA.
Organization No: 009451
Acronym: Amazon Lines Limited
DBA Name: NA.
Organization No: 010793
Acronym: Amcliff, Inc.
DBA Name: NA.
Organization No: 0000216

Acronym: American Niugini Shipping Co., Inc.
DBA Name: NA.
Organization No: 008192
Acronym: American Auto Carriers/NOSAC Joint Service
DBA Name: NA.
Organization No: 009874
Acronym: American Drawback Agency
DBA Name: NA.
Organization No: 008538
Acronym: American Ensign Van Service, Inc.
DBA Name: NA.
Organization No: 005612
Acronym: American Overseas Shipping Company
DBA Name: NIKU Shipping Line.
Organization No: 010836
Acronym: American Relief Abroad, Inc.
DBA Name: NA.
Organization No: 000241
Acronym: American Tankcontainer Services, Inc.
DBA Name: NA.
Organization No: 010511
Acronym: Americas Container Line (Liberia) Corporation
DBA Name: NA.
Organization No: 007593
Acronym: Amership, Inc.
DBA Name: NA.
Organization No: 005871
Acronym: AML, Inc.
DBA Name: NA.
Organization No: 009514
Acronym: Antillas Blue Shipping Co. Inc.
DBA Name: NA.
Organization No: 010596
Acronym: Antillean Marine Shipping Corporation
DBA Name: NA.
Organization No: 000259
Acronym: Antilles Lloyd Ltd.
DBA Name: NA.
Organization No: 009511
Acronym: Apex Maritime Ltd.
DBA Name: NA.
Organization No: 010342
Acronym: Aquatran, Inc.
DBA Name: NA.
Organization No: 000266
Acronym: ARAS International, Inc.
DBA Name: NA.
Organization No: 008836
Acronym: Aremar C.I.F.S.A.
DBA Name: NA.
Organization No: 008561
Acronym: Arvida Shipping Ltd.
DBA Name: NA.
Organization No: 009851
Acronym: Atlantic Cargo Services AB
DBA Name: NA.
Organization No: 000288

Acronym: Atlantic Cross Shipping
DBA Name: NA.
Organization No: 000293
Acronym: Atlantik Express Linie Thien & Heyenga Sch.
DBA Name: NA.
Organization No: 005795
Acronym: Atlas Consolidated Container, Inc.
DBA Name: NA.
Organization No: 000312
Acronym: Autoship, Inc.
DBA Name: NA.
Organization No: 008191
Acronym: Ballauf Air Luftfrachtspeditionsgesellschaft
DBA Name: NA.
Organization No: 010659
Acronym: Baltrans Ocean Inc.
DBA Name: NA.
Organization No: 008814
Acronym: Bangladesh Shipping Corporation
DBA Name: NA.
Organization No: 000341
Acronym: Barbican Bridge Pty Ltd.
DBA Name: NA.
Organization No: 007591
Acronym: BCL US-Med Line Limited
DBA Name: NA.
Organization No: 008334
Acronym: Bekins Wide World Service, Inc.
DBA Name: NA.
Organization No: 000359
Acronym: Bermuda Atlantic Line, Ltd.
DBA Name: NA.
Organization No: 000363
Acronym: Best International Freight Services
DBA Name: NA.
Organization No: 010740
Acronym: Bimini Conveyors, Ltd.
DBA Name: NA.
Organization No: 000377
Acronym: Bordelon Brothers Towing Company
DBA Name: NA.
Organization No: 008825
Acronym: Boyang Ltd.
DBA Name: NA.
Organization No: 009342
Acronym: Brazilian Overseas Shipping Services Ltd.
DBA Name: Boss Line
Organization No: 009604
Acronym: Breakbulk & Consolidation Services Pte Ltd.
DBA Name: NA.
Organization No: 010489
Acronym: Breakbulk Marine Services, Ltd.
DBA Name: NA.
Organization No: 001603

Acronym: Broadways All Transport System Limited
 DBA Name: NA.
 Organization No: 009780
 Acronym: BTI Freight Systems, Inc.
 DBA Name: NA.
 Organization No: 010350
 Acronym: C & C Freight International (HK) Ltd.
 DBA Name: NA.
 Organization No: 007647
 Acronym: C-Line Shipping Limited
 DBA Name: NA.
 Organization No: 009500
 Acronym: C.A. Maritima Oceanica Granelera
 DBA Name: C.A.M.O.GRA.
 Organization No: 005707
 Acronym: Calypso Container Line
 DBA Name: NA.
 Organization No: 000672
 Acronym: Capital Express Co.
 DBA Name: NA.
 Organization No: 010340
 Acronym: Car Shipping International, Inc.
 DBA Name: NA.
 Organization No: 008605
 Acronym: Cara Steamship Freight Lines, Inc.
 DBA Name: NA.
 Organization No: 009685
 Acronym: Carga N.V.
 DBA Name: Seacon
 Organization No: 010475
 Acronym: Cargo America Corp.
 DBA Name: NA.
 Organization No: 008668
 Acronym: Cargo Express International, Inc.
 DBA Name: NA.
 Organization No: 008357
 Acronym: Cargo Transport Inc.
 DBA Name: NA.
 Organization No: 010672
 Acronym: Caribbean Export Shipping Lines, The
 DBA Name: NA.
 Organization No: 007301
 Acronym: Caribbean Express Line, Inc.
 DBA Name: NA.
 Organization No: 006586
 Acronym: Caribbean Marine Cargo Company
 DBA Name: NA.
 Organization No: 009336
 Acronym: Caribbean-New Brunswick Navigation Ltd.
 DBA Name: NA.
 Organization No: 008354
 Acronym: CDM International
 DBA Name: NA.
 Organization No: 008302
 Acronym: Champion International Moving, Ltd.

DBA Name: NA.
 Organization No: 010840
 Acronym: Chemet Maritime Pte Ltd.
 DBA Name: NA.
 Organization No: 009487
 Acronym: Cho Yang Shipping Co., Ltd.
 DBA Name: NA.
 Organization No: 009652
 Acronym: Combitrana S.R.L.
 DBA Name: Combimar Overseas Services
 Organization No: 010445
 Acronym: Compagnie Des Long-Courriers S.A. (COLSA)
 DBA Name: NA.
 Organization No: 006028
 Acronym: Compagnie Nationale Algerienne De Navigation
 DBA Name: NA.
 Organization No: 000787
 Acronym: Compania Argentina De Transportes Maritimos
 DBA Name: Ciamar
 Organization No: 008186
 Acronym: Compania Maritima Isla De Pascua S.A.
 DBA Name: NA.
 Organization No: 006351
 Acronym: Compania Peruana De Vapores
 DBA Name: NA.
 Organization No: 000889
 Acronym: Con-Carriers Ltd.
 DBA Name: NA.
 Organization No: 008936
 Acronym: Conship Maritime Agency of N.J., Inc.
 DBA Name: Conship Maritime Line
 Organization No: 007828
 Acronym: Consolidated Trade & Transport Corp.
 DBA Name: NA.
 Organization No: 009609
 Acronym: Container Lines Ltd.
 DBA Name: NA.
 Organization No: 000812
 Acronym: Container Services International, Inc.
 DBA Name: NA.
 Organization No: 010810
 Acronym: Contemaris Line RMS/Euro-lines Schiffahrtsges
 DBA Name: NA.
 Organization No: 008066
 Acronym: CS Med Shipping (Bahamas) Ltd.
 DBA Name: NA.
 Organization No: 008014
 Acronym: Cube Shipping & Warehousing Co. Ltd.
 DBA Name: NA.
 Organization No: 005974
 Acronym: Cutlas International Inc.
 DBA Name: Cutlas Line
 Organization No: 010506

Acronym: CVS Enterprises, Inc.
 DBA Name: CVS Freight Services
 Organization No: 008670
 Acronym: D'Leon Lines Inc.
 DBA Name: NA.
 Organization No: 010600
 Acronym: D. Kratt International Inc.
 DBA Name: Dennehy-Kratt Line
 Organization No: 010552
 Acronym: Damco Maritime Corp.
 DBA Name: DM Consol-Line
 Organization No: 008767
 Acronym: Dart Consolidators Limited
 DBA Name: NA.
 Organization No: 009917
 Acronym: Dart Express (Taiwan) Ltd.
 DBA Name: NA.
 Organization No: 010635
 Acronym: Delmas A.A.E.L. Joint Service Agreement
 DBA Name: NA.
 Organization No: 010867
 Acronym: Distribution Services Ltd.
 DBA Name: NA.
 Organization No: 010947
 Acronym: Dock Express Contractors, Inc.
 DBA Name: NA.
 Organization No: 008946
 Acronym: Dock-Express Shipping B.V.
 DBA Name: NA.
 Organization No: 010828
 Acronym: Dole Fresh Fruit Company
 DBA Name: NA.
 Organization No: 009878
 Acronym: Dominion Marine Transport, Inc.
 DBA Name: NA.
 Organization No: 009610
 Acronym: Dong Joo Int'l Shipping Co., Ltd.
 DBA Name: NA.
 Organization No: 010602
 Acronym: Dong Shin Shipping Co., Ltd.
 DBA Name: NA.
 Organization No: 010435
 Acronym: DSR/Senator Joint Service
 DBA Name: NA.
 Organization No: 009934
 Acronym: Dukes Clearance Corp.
 DBA Name: NA.
 Organization No: 010708
 Acronym: EAC Lines Eastern Australia Pty. Ltd.
 DBA Name: NA.
 Organization No: 009564
 Acronym: EAC Lines Western Australia Ltd.
 DBA Name: NA.
 Organization No: 009733
 Acronym: EAC Transport West Africa Service Ltd. A/S
 DBA Name: NA.
 Organization No: 008439

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| Acronym: Eastern Shipping Ltd. | Organization No: 010813 | DBA Name: NA. |
| DBA Name: NA. | Acronym: Finn Container Cargo Services | Organization No: 007710 |
| Organization No: 008515 | DBA Name: NA. | Acronym: Gulf Puerto Rican Transport, Inc. |
| Acronym: Eastern Van Express Co., Ltd. | Organization No: 008400 | DBA Name: NA. |
| DBA Name: NA. | Acronym: Florida Bahamas Shipping Corp., Ltd. | Organization No: 006837 |
| Organization No: 010589 | DBA Name: NA. | Acronym: Gulf-Carib Lines Ltd. |
| Acronym: EES Freight Services Pte Ltd. | Organization No: 008628 | DBA Name: NA. |
| DBA Name: NA. | Acronym: Florida Lines, Inc. | Organization No: 000487 |
| Organization No: 010558 | DBA Name: NA. | Acronym: Gulf-Med Shipping Lines Inc. |
| Acronym: Eiko Maritime S.A. | Organization No: 008221 | DBA Name: NA. |
| DBA Name: NA. | Acronym: FLY Dragon Shipping Ltd. | Organization No: 000490 |
| Organization No: 008128 | DBA Name: NA. | Acronym: Hai Nan International Shipping Company |
| Acronym: Ellerman Lines PLC | Organization No: 010825 | DBA Name: NA. |
| DBA Name: NA. | Acronym: Foong Sun Shipping (PTE) Ltd. | Organization No: 008543 |
| Organization No: 006582 | DBA Name: NA. | Acronym: Hankyu International Transport (USA) Inc. |
| Acronym: Empremar/MSC Agreement | Organization No: 010804 | DBA Name: NA. |
| DBA Name: NA. | Acronym: Formosa Forwarding Co., Ltd. | Organization No: 007918 |
| Organization No: 011013 | DBA Name: NA. | Acronym: Hanmi Shipping, Inc. |
| Acronym: Empresa Naviera Santa Ltd. | Organization No: 010363 | DBA Name: NA. |
| DBA Name: NA. | Acronym: Forward Concept, The | Organization No: 008319 |
| Organization No: 009405 | DBA Name: NA. | Acronym: HC Hansa Cargo Transport GMBH |
| Acronym: EOL (UK) Ltd. | Organization No: 009702 | DBA Name: Hansa Cargo GMBH |
| DBA Name: NA. | Acronym: Freight Americas, Inc. | Organization No: 010218 |
| Organization No: 010618 | DBA Name: NA. | Acronym: Hiton Express Inc. |
| Acronym: Euram Lines and Navigation Inc. | Organization No: 008562 | DBA Name: NA. |
| DBA Name: NA. | Acronym: Freight Links Express Pte Ltd. | Organization No: 009380 |
| Organization No: 001245 | DBA Name: NA. | Acronym: Horizon Air Freight, Inc. |
| Acronym: Eurasia Express (HK) Co., Ltd. | Organization No: 010405 | DBA Name: NA. |
| DBA Name: NA. | Acronym: Frontier Liner Services Inc. | Organization No: 001448 |
| Organization No: 009318 | DBA Name: NA. | Acronym: Hoyer (USA) Inc. |
| Acronym: Eurotrans Systems, Inc. | Organization No: 010779 | DBA Name: NA. |
| DBA Name: NA. | Acronym: Galax' Sea S.A. | Organization No: 006889 |
| Organization No: 001261 | DBA Name: Seagull Container Line. | Acronym: Hugo Stinnes Schiffahrt GMBH |
| Acronym: Ever Concord Ltd. | Organization No: 010332 | DBA Name: NA. |
| DBA Name: NA. | Acronym: Galaxy Transport Co., Ltd. | Organization No: 008948 |
| Organization No: 010605 | DBA Name: NA. | Acronym: Huntington International Corp. |
| Acronym: Everpole Forwarding Company Limited | Organization No: 010379 | DBA Name: NA. |
| DBA Name: NA. | Acronym: Genesis (Europe/UK) Ltd. | Organization No: 010814 |
| Organization No: 010369 | DBA Name: NA. | Acronym: Hybur Ltd. |
| Acronym: EWG America, Inc. | Organization No: 007823 | DBA Name: NA. |
| DBA Name: NA. | Acronym: Global International Forwarding Ltd. | Organization No: 001451 |
| Organization No: 006902 | DBA Name: Global Container Line | Acronym: Hyun Dae Trucking Co. |
| Acronym: Expeditors International Ocean | Organization No: 010392 | DBA Name: NA. |
| DBA Name: NA. | Acronym: Glory Freight Limited | Organization No: 008504 |
| Organization No: 010771 | DBA Name: NA. | Acronym: Ideal Ocean Lines Ltd. |
| Acronym: Exxtor Group Limited | Organization No: 010523 | DBA Name: NA. |
| DBA Name: NA. | Acronym: Golden Fortune Shipping Company Limited | Organization No: 010444 |
| Organization No: 010454 | DBA Name: NA. | Acronym: Ikaros Transport Corp. |
| Acronym: Famepak International Shipping Company | Organization No: 008020 | DBA Name: NA. |
| DBA Name: NA. | Acronym: Golden Frog Investment Corporation | Organization No: 008132 |
| Organization No: 009561 | DBA Name: NA. | Acronym: Imex Shipping Inc. |
| Acronym: Family Islands Shipping Company Ltd. | Organization No: 005880 | DBA Name: NA. |
| DBA Name: NA. | Acronym: Gran Golfo Express | Organization No: 009608 |
| Organization No: 009509 | DBA Name: Transvave/Navconsa Joint Service | Acronym: Inteks, Inc. |
| Acronym: Famous Freight Forwarding (S) Pte Ltd. | Organization No: 007727 | DBA Name: NA. |
| DBA Name: NA. | Acronym: Gruenhut International Ltd. | Organization No: 010587 |
| Organization No: 010530 | DBA Name: NA. | Acronym: Interline Connection Inc. |
| Acronym: Fast Forward & Company | Organization No: 010375 | DBA Name: CGM/Interline |
| DBA Name: NA. | Acronym: Gulf Carib Lines Ltd. | |

Organization No: 008956
 Acronym: Intermarine Ltd.
 DBA Name: NA.
 Organization No: 009646
 Acronym: International Chartering Operations and Shipp
 DBA Name: NA.
 Organization No: 007928
 Acronym: International Trade & Transport Co., Ltd.
 DBA Name: I.T.T.
 Organization No: 007563
 Acronym: International Transpac Limited
 DBA Name: NA.
 Organization No: 010620
 Acronym: International Transportation Network, Inc.
 DBA Name: NA.
 Organization No: 006748
 Acronym: Iraqi State Enterprise for Water Transport
 DBA Name: Iraqi Lines
 Organization No: 009321
 Acronym: Isla Dominicana De Petroleos
 DBA Name: NA.
 Organization No: 010834
 Acronym: Istarska Plovidba
 DBA Name: Istra Line
 Organization No: 006975
 Acronym: J L K International
 DBA Name: East Indies & Tropics Line
 Organization No: 008139
 Acronym: J.S.I. Intermodal
 DBA Name: NA.
 Organization No: 006286
 Acronym: Jay Services
 DBA Name: Corsair Lines
 Organization No: 009848
 Acronym: Jetstream Freight Services International, Inc.
 DBA Name: NA.
 Organization No: 002224
 Acronym: Jordan National Shipping Lines Co. Ltd.
 DBA Name: NA.
 Organization No: 008117
 Acronym: Jumbo Protectors Ltd.
 DBA Name: Jumbo Shipping Far East Service
 Organization No: 010550
 Acronym: Jumbo Shipping Limited
 DBA Name: NA.
 Organization No: 010195
 Acronym: Kenehan International Services
 DBA Name: NA.
 Organization No: 010581
 Acronym: Kersten, Hunik's Intl. Transportbedrijf B.V.
 DBA Name: Kertainer
 Organization No: 010480
 Acronym: Khana Enterprise Co., Ltd.
 DBA Name: NA.
 Organization No: 010595

Acronym: Khana Marine Ltd.
 DBA Name: NA.
 Organization No: 006356
 Acronym: Kheeryoong Commerce & Transport Co., Ltd.
 DBA Name: NA.
 Organization No: 009855
 Acronym: King Ocean Central America, S.A.
 DBA Name: NA.
 Organization No: 009406
 Acronym: Kommar Companhia Maritima S.A.
 DBA Name: NA.
 Organization No: 007117
 Acronym: Korea Line Corporation
 DBA Name: NA.
 Organization No: 008773
 Acronym: Korea Logistics Systems Inc.
 DBA Name: NA.
 Organization No: 010632
 Acronym: Koscargo Consolidators Corp.
 DBA Name: NA.
 Organization No: 010673
 Acronym: Kuwait Eastern Shipping Company
 DBA Name: NA.
 Organization No: 010796
 Acronym: La Naviera S.A.C. Linea Argentina De Navegaci
 DBA Name: La Naviera S.A.C.
 Organization No: 006931
 Acronym: Levant Line S.A.
 DBA Name: NA.
 Organization No: 008943
 Acronym: Lloyd (Bermuda) Line Ltd.
 DBA Name: NA.
 Organization No: 001613
 Acronym: M + R Forwarding Pte Ltd.
 DBA Name: NA.
 Organization No: 010727
 Acronym: Malenstein Rotterdam BV
 DBA Name: NA.
 Organization No: 002297
 Acronym: Marbriio Naviera S.A.
 DBA Name: NA.
 Organization No: 010610
 Acronym: Marcella Shipping Company
 DBA Name: NA.
 Organization No: 006981
 Acronym: Marexpress, S.A.
 DBA Name: NA.
 Organization No: 009565
 Acronym: Marimed Shipping Company Limited
 DBA Name: NA.
 Organization No: 010775
 Acronym: Marina Mercante Biscayne Ltd.
 DBA Name: NA.
 Organization No: 009388
 Acronym: Marine Overland Shipping Services, Inc.
 DBA Name: NA.
 Organization No: 009613

Acronym: Maritima Aragua, S.A.
 DBA Name: Maragua Line
 Organization No: 001666
 Acronym: Maritime Consolidators Holland (MCH B.V.)
 DBA Name: NA.
 Organization No: 010665
 Acronym: Maryland Ship Incorporated
 DBA Name: NA.
 Organization No: 007853
 Acronym: Maxtrans Co., Inc.
 DBA Name: NA.
 Organization No: 009449
 Acronym: MB Canadian Tropic Line
 DBA Name: NA.
 Organization No: 006316
 Acronym: MC-Racon (HK) Ltd.
 DBA Name: NA.
 Organization No: 009464
 Acronym: MCC (Mercantile Europe) S.A.
 DBA Name: NA.
 Organization No: 010446
 Acronym: MCC-Mercantile Europe Ltd.
 DBA Name: NA.
 Organization No: 010384
 Acronym: McIlwraith McEacharn Operations Limited
 DBA Name: NA.
 Organization No: 009957
 Acronym: MFC International, Inc.
 DBA Name: NA.
 Organization No: 010646
 Acronym: Micronesia Cargo International
 DBA Name: NA.
 Organization No: 008647
 Acronym: Mike Banks Towing Co.
 DBA Name: NA.
 Organization No: 011019
 Acronym: Mollie Limited
 DBA Name: NA.
 Organization No: 006679
 Acronym: Montemar S.A.
 DBA Name: Pan American Independent Line
 Organization No: 009839
 Acronym: Myanmar Container Line
 DBA Name: NA.
 Organization No: 010776
 Acronym: N.V. Bocimar S.A.
 DBA Name: NA.
 Organization No: 009518
 Acronym: National Van Lines, Inc.
 DBA Name: NA.
 Organization No: 002566
 Acronym: Nautical Express, Ltd.
 DBA Name: NA.
 Organization No: 008813
 Acronym: Nautilus Chartering Company Inc.
 DBA Name: NA.
 Organization No: 009417
 Acronym: Naviera Caribana, C.A.
 DBA Name: NA.

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| Organization No: 009328 | Acronym: NSCC Transport Services, Inc. | Acronym: Pacific Container Line |
| Acronym: Naviera Cono Sur S.A. | DBA Name: NA. | DBA Name: NA. |
| DBA Name: NA. | Organization No: 009551 | Organization No: 009838 |
| Organization No: 007624 | Acronym: O.T.S. SRL Overseas | Acronym: Pacific International Lines |
| Acronym: Naviera Consolidada S.A. | Transport System | (PTE) Ltd. |
| DBA Name: Expreso Del Pacifico | DBA Name: NA. | DBA Name: NA. |
| Organization No: 001511 | Organization No: 010817 | Organization No: 008170 |
| Acronym: Naviera Del Pacifico C.A. | Acronym: Obsidian Shipping Lines, Inc. | Acronym: Pacific Link Shipping, Ltd. |
| DBA Name: NA. | DBA Name: NA. | DBA Name: NA. |
| Organization No: 001514 | Organization No: 008173 | Organization No: 010827 |
| Acronym: Naviera Interamericana | Acronym: Ocean Bulk Transport Inc. | Acronym: Pacific Meridian Line |
| "Navicana", S.A. | DBA Name: NA. | DBA Name: Inter-American Shipping |
| DBA Name: NA. | Organization No: 009597 | Organization No: 009331 |
| Organization No: 006809 | Acronym: Ocean Focus International | Acronym: Pacon Express, Inc. |
| Acronym: Naviera Lavinel C.A. | (USA) Inc. | DBA Name: NA. |
| DBA Name: NA. | DBA Name: NA. | Organization No: 008438 |
| Organization No: 006136 | Organization No: 009571 | Acronym: Pad Line Overseas, S.A. |
| Acronym: Naviera Transpapel, C.A. | Acronym: Ocean Horizon Shipping Co. | DBA Name: NA. |
| DBA Name: NA. | DBA Name: Crescent Line | Organization No: 007854 |
| Organization No: 006181 | Organization No: 010612 | Acronym: Palau Shipping Company, Inc. |
| Acronym: Naviera Ven-Azul, C.A. | Acronym: Ocean Line of North Florida, | DBA Name: NA. |
| DBA Name: NA. | Inc. | Organization No: 000978 |
| Organization No: 010685 | DBA Name: NA. | Acronym: Pan Atlantic Warehouse Inc. |
| Acronym: NEC Trade Service, Ltd. | Organization No: 007594 | DBA Name: NA. |
| DBA Name: NA. | Acronym: Ocean Pacific International | Organization No: 008878 |
| Organization No: 009476 | DBA Name: Ocean Pacific International | Acronym: Pan-Oceans, Inc. |
| Acronym: New Direction Shipping Co., | Organization No: 009944 | DBA Name: NA. |
| Ltd. | Acronym: Ocean Steamship (Nigeria) | Organization No: 007851 |
| DBA Name: NA. | Ltd. | Acronym: Panama Centroamericana De |
| Organization No: 008537 | DBA Name: NA. | Navegacion S.A. |
| Acronym: New England Groupage Inc. | Organization No: 009675 | DBA Name: NA. |
| DBA Name: NA. | Acronym: Oceanaire International | Organization No: 00991 |
| Organization No: 001538 | Services, Inc. | Acronym: Pasha Terminal Company |
| Acronym: New Light Shipping | DBA Name: NA. | DBA Name: NA. |
| DBA Name: NA. | Organization No: 007290 | Organization No: 009949 |
| Organization No: 008185 | Acronym: Oceanic Liner Services, Inc. | Acronym: PBX Overseas Transport |
| Acronym: Newport Cargo Consolidators, | DBA Name: NA. | DBA Name: NA. |
| Inc. | Organization No: 008920 | Organization No: 008094 |
| DBA Name: NA. | Acronym: OCI Ocean Services, Inc. | Acronym: Peeters & Van Yperen |
| Organization No: 008685 | DBA Name: NA. | Shipping Co. Ltd. |
| Acronym: Nexos Line, Inc. | Organization No: 010604 | DBA Name: NA. |
| DBA Name: NA. | Acronym: OEC Freight System (Chicago) | Organization No: 010588 |
| Organization No: 001541 | Inc. | Acronym: Pentrans, Inc. |
| Acronym: Nigeria America Line Ltd. | DBA Name: NA. | DBA Name: NA. |
| DBA Name: NA. | Organization No: 010714 | Organization No: 006911 |
| Organization No: 001544 | Acronym: Olympic Maritime Corporation | Acronym: Pharos Lines S.A. |
| Acronym: Nordic American Shipping A/ | DBA Name: NA. | DBA Name: Constellation Line |
| S | Organization No: 006342 | Organization No: 000808 |
| DBA Name: NA. | Acronym: OMS Moving, Inc. | Acronym: Phoenix Freight Line |
| Organization No: 009856 | DBA Name: NA. | DBA Name: Leyui Development Ltd. |
| Acronym: Norsul Internacional S.A. | Organization No: 010698 | Organization No: 006910 |
| DBA Name: NA. | Acronym: Orient Overseas Container | Acronym: Phoenix Shipping 1986, Inc. |
| Organization No: 009469 | Line (UK) Ltd. | DBA Name: NA. |
| Acronym: Norsur Lines, Inc. | DBA Name: NA. | Organization No: 008968 |
| DBA Name: NA. | Organization No: 007923 | Acronym: Phoenix Transportation |
| Organization No: 010648 | Acronym: P. T. Moges Shipping Co. Ltd. | Systems |
| Acronym: North American Caribbean | DBA Name: NA. | DBA Name: NA. |
| Line Ltd. | Organization No: 007348 | Organization No: 009673 |
| DBA Name: North American Caribbean | Acronym: Pacbro International Pty. Ltd. | Acronym: Pioneer Shipping Co., Inc. |
| Line | DBA Name: NA. | DBA Name: NA. |
| Organization No: 008921 | Organization No: 010722 | Organization No: 008088 |
| Acronym: Norwegian/American | Acronym: Pacific Champion Service | Acronym: Platou-Pacific Shipping |
| Enterprises, Inc. | Corp | Services |
| DBA Name: NA. | DBA Name: NA. | DBA Name: NA. |
| Organization No: 007985 | Organization No: 007507 | |

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| Organization No: 008663 | Organization No: 007473 | DBA Name: NA. |
| Acronym: Pol-Express, Inc. | Acronym: Sanko Steamship Co. Ltd., | Organization No: 010921 |
| DBA Name: NA. | The | Acronym: Sentry Shipping & Transport, |
| Organization No: 008807 | DBA Name: NA. | Inc. |
| Acronym: Polamer, Inc. | Organization No: 001070 | DBA Name: NA. |
| DBA Name: NA. | Acronym: Sanwa Line Inc. | Organization No: 010695 |
| Organization No: 010526 | DBA Name: Sanwa Line | Acronym: Sextant Shipping, Inc. |
| Acronym: Pro-Speed Shipping, Inc. | Organization No: 010210 | DBA Name: NA. |
| DBA Name: NA. | Acronym: Scan Pacific Line (OY Pacific | Organization No: 008583 |
| Organization No: 010726 | Line Ltd. AB) | Acronym: Shenzhin Shipping Agency |
| Acronym: Pum Yang Express U.S.A., Inc. | DBA Name: NA. | Co., Ltd. |
| DBA Name: NA. | Organization No: 001078 | DBA Name: NA. |
| Organization No: 008809 | Acronym: Scan-Shipping, Inc. | Organization No: 009378 |
| Acronym: R. E. Rogers, Inc. | DBA Name: NA. | Acronym: Shinto Shipping Co., Ltd. |
| DBA Name: NA. | Organization No: 001081 | DBA Name: NA. |
| Organization No: 000878 | Acronym: Scotpac International (UK) | Organization No: 002147 |
| Acronym: Rainbow Navigation, Inc. | Limited | Acronym: Shinwa Shosen Kaisha, Ltd. |
| DBA Name: NA. | DBA Name: NA. | DBA Name: NA. |
| Organization No: 000857 | Organization No: 010720 | Organization No: 005992 |
| Acronym: Rambaud International | Acronym: Sea Air & Land Shipping | Acronym: Shipco Transport Inc. |
| DBA Name: NA. | Corp. | DBA Name: NA. |
| Organization No: 010611 | DBA Name: NA. | Organization No: 008352 |
| Acronym: Rarotonga Line Ltd. | Organization No: 009578 | Acronym: Shipman International |
| DBA Name: NA. | Acronym: Sea Shuttle, Inc. | (Taiwan) Ltd. |
| Organization No: 008231 | DBA Name: NA. | DBA Name: NA. |
| Acronym: Refrigerated Container | Organization No: 008830 | Organization No: 009325 |
| Carriers Pty. Ltd. | Acronym: Sea-Road Trans Corporation | Acronym: Shu, Frank Tao-Ching |
| DBA Name: NA. | DBA Name: Sea-Road International | DBA Name: NA. |
| Organization No: 010847 | Organization No: 009860 | Organization No: 007364 |
| Acronym: Regent Express Korea Inc. | Acronym: Seaboard Caribe Ltd. | Acronym: SKS Trading Co., Ltd. |
| DBA Name: NA. | DBA Name: NA. | DBA Name: NA. |
| Organization No: 010528 | Organization No: 005680 | Organization No: 006366 |
| Acronym: Rennies Group Limited | Acronym: Seabridge Freight, Inc. | Acronym: South Seas Steamship |
| DBA Name: Renfreight | DBA Name: NA. | Company |
| Organization No: 010422 | Organization No: 009365 | DBA Name: NA. |
| Acronym: Robbert, Roberta C.L. | Acronym: Seabridge Pacific S.A. | Organization No: 001165 |
| DBA Name: Vintage Express | DBA Name: NA. | Acronym: Southwest Consolidator |
| Organization No: 010819 | Organization No: 008268 | System |
| Acronym: Royal Cargo Line, Inc. | Acronym: Seacon Express, Inc. | DBA Name: NA. |
| DBA Name: NA. | DBA Name: NA. | Organization No: 008800 |
| Organization No: 000884 | Organization No: 001583 | Acronym: Spinoza Shipping Ltd. |
| Acronym: S. Johnson & Associates, Inc. | Acronym: Seajet Express, Inc. | DBA Name: NA. |
| DBA Name: All Harbors Shipping | DBA Name: NA. | Organization No: 008181 |
| Company | Organization No: 008514 | Acronym: Stallion Cargo, Inc. |
| Organization No: 009323 | Acronym: Seamar Shipping Corporation | DBA Name: NA. |
| Acronym: S.F. Enterprises | DBA Name: NA. | Organization No: 010474 |
| DBA Name: NA. | Organization No: 010718 | Acronym: Steinbeck Global Logistics |
| Organization No: 006230 | Acronym: Seatrak Corp. | Europe B.V. |
| Acronym: Saga Transport (HK) Ltd. | DBA Name: Seatrak Line | DBA Name: NA. |
| DBA Name: NA. | Organization No: 010190 | Organization No: 010476 |
| Organization No: 010477 | Acronym: Seawinds, Limited | Acronym: Stolt Tank Containers, Inc. |
| Acronym: Sagatrans S.A. | DBA Name: NA. | DBA Name: NA. |
| DBA Name: NA. | Organization No: 001124 | Organization No: 001191 |
| Organization No: 010430 | Acronym: Secure Freight Systems | Acronym: Sunny Enterprise Inc. |
| Acronym: Salem Caribbean Line | (Washington) Ltd. | DBA Name: NA. |
| Corporation | DBA Name: NA. | Organization No: 006677 |
| DBA Name: NA. | Organization No: 009918 | Acronym: Supreme Freight |
| Organization No: 008867 | Acronym: Seil Shipping Co., Ltd. | Consolidators (Ocean) Ltd. |
| Acronym: Salta Shipping Corporation, | DBA Name: NA. | DBA Name: NA. |
| Ltd. | Organization No: 010529 | Organization No: 010733 |
| DBA Name: NA. | Acronym: Senator Linie GMBH & Co. | Acronym: Surface Air International of |
| Organization No: 006024 | KG | Calif. Inc. |
| Acronym: Sands & Sons Shipping Co., | DBA Name: NA. | DBA Name: NA. |
| (1987), Ltd. | Organization No: 006914 | Organization No: 009655 |
| DBA Name: NA. | Acronym: Senko Co., Inc. | |

Acronym: Taino Lines, Inc.
 DBA Name: NA.
 Organization No: 008494
 Acronym: Taiwan Dispatch Forwarding Inc.
 DBA Name: NA.
 Organization No: 008922
 Acronym: Tarnak Inc.
 DBA Name: NA.
 Organization No: 010809
 Acronym: Tarros S.P.A.
 DBA Name: NA.
 Organization No: 006249
 Acronym: Texas American Shipping Corp.
 DBA Name: NA.
 Organization No: 005781
 Acronym: Thames Shipping, Ltd.
 DBA Name: NA.
 Organization No: 008258
 Acronym: Thompson Shipping Co. Ltd.
 DBA Name: NA.
 Organization No: 000522
 Acronym: Tigris International Corp.
 DBA Name: NA.
 Organization No: 007995
 Acronym: Tita Ocean Transport, Inc.
 DBA Name: NA.
 Organization No: 009745
 Acronym: Tomax Container Line
 DBA Name: NA.
 Organization No: 005782
 Acronym: Top Foods, Inc.
 DBA Name: Top Freight Systems, Inc.
 Organization No: 010806
 Acronym: Total Transportation Concept, Inc.
 DBA Name: NA.
 Organization No: 009584
 Acronym: Touchdown Freight Inc.
 DBA Name: NA.
 Organization No: 010367
 Acronym: Tower Group International, Inc.
 DBA Name: Tower Transport
 Organization No: 010696
 Acronym: Trans Intermodal Transport Inc.
 DBA Name: NA.
 Organization No: 000559
 Acronym: Trans Power International Forwarder Corp.
 DBA Name: NA.
 Organization No: 008414
 Acronym: Trans-Alliance Int'l Fwdg. Co.
 DBA Name: Nova Ocean Line
 Organization No: 009329
 Acronym: Trans-Global Cargo Services, Inc.
 DBA Name: NA.
 Organization No: 010837
 Acronym: Trans-Ocean Bridge Services (U.S.A.), Inc.
 DBA Name: NA.
 Organization No: 009712

Acronym: Trans-Ocean Lines, Inc.
 DBA Name: NA.
 Organization No: 007112
 Acronym: Transamerican Steamship Corporation
 DBA Name: TSC
 Organization No: 000570
 Acronym: Transcontinental Imex Inc.
 DBA Name: Benship Liner Service
 Organization No: 009440
 Acronym: Transittainer, Inc.
 DBA Name: Transittainer
 Organization No: 007312
 Acronym: Transocean Marine, Inc.
 DBA Name: NA.
 Organization No: 006240
 Acronym: Transpacific Tech Ltd.
 DBA Name: Transpacific Containerline
 Organization No: 010640
 Acronym: Transportes Internacionales Munoz Y Cabrero
 DBA Name: NA.
 Organization No: 010427
 Acronym: Transportes Maritimos Centroamericanos, S.A.
 DBA Name: Tramarco Lines
 Organization No: 000607
 Acronym: Transports Maritimes D'Amerique S.A.
 DBA Name: NA.
 Organization No: 006668
 Acronym: Transroll Navegacao S.A.
 DBA Name: NA.
 Organization No: 008283
 Acronym: Transworld Freight Services, Inc.
 DBA Name: NA.
 Organization No: 007881
 Acronym: Tropical Shipping & Construction Co., Ltd.
 DBA Name: NA.
 Organization No: 006247
 Acronym: U T Freight Service (USA) Ltd.
 DBA Name: NA.
 Organization No: 008600
 Acronym: U.S. Barge, Inc.
 DBA Name: NA.
 Organization No: 008233
 Acronym: U/M Lakes Service
 DBA Name: NA.
 Organization No: 008529
 Acronym: UCB Freight Services (USA) Inc.
 DBA Name: NA.
 Organization No: 007447
 Acronym: UCO Line GMBH
 DBA Name: United Container Operators
 Organization No: 010549
 Acronym: Ultimate Freight Services PTY Ltd.
 DBA Name: NA.
 Organization No: 010353
 Acronym: Uni-Sea & Air Freight Co., Ltd.
 DBA Name: NA.

Organization No: 010728
 Acronym: Uniexco Carriers, Inc.
 DBA Name: NA.
 Organization No: 008461
 Acronym: Union Carib Line Ltd.
 DBA Name: NA.
 Organization No: 008573
 Acronym: Unitainer System Forwarder Inc.
 DBA Name: NA.
 Organization No: 009870
 Acronym: United Intermodal Line
 DBA Name: NA.
 Organization No: 000056
 Acronym: United Thai Shipping Corp. Ltd.
 DBA Name: NA.
 Organization No: 006158
 Acronym: Unitrans International Inc.
 DBA Name: NA.
 Organization No: 010824
 Acronym: Universal Shipping Agency, Inc.
 DBA Name: NA.
 Organization No: 001387
 Acronym: Van Nievelt Goudriaan & Co. B.V.
 DBA Name: Holland Pan-American Line
 Organization No: 007579
 Acronym: Vantrans Service Inc.
 DBA Name: NA.
 Organization No: 010466
 Acronym: Vastmetier Limited
 DBA Name: NA.
 Organization No: 008250
 Acronym: Velvet Marine Contractors, Inc.
 DBA Name: NA.
 Organization No: 007335
 Acronym: Vencaribe C.A.—Panama S.A.
 DBA Name: NA.
 Organization No: 008079
 Acronym: Venezuela Transport Line, Inc.
 DBA Name: NA.
 Organization No: 010631
 Acronym: Venezuelan Container Service
 DBA Name: NA.
 Organization No: 008539
 Acronym: Ventrinsa Line
 DBA Name: NA.
 Organization No: 010686
 Acronym: Victory Van International
 DBA Name: NA.
 Organization No: 000015
 Acronym: Viking Freight System, Inc.
 DBA Name: NA.
 Organization No: 007793
 Acronym: W S A Lines Ltd
 DBA Name: NA.
 Organization No: 010196
 Acronym: W T Shipping, Inc.
 DBA Name: NA.
 Organization No: 009846

Acronym: Wallnos Far East Service
DBA Name: NA.
Organization No: 008853

Acronym: Webster Miller Freight
Services Ltd.
DBA Name: NA.
Organization No: 010822

Acronym: Wice Marine Services Ltd.
DBA Name: NA.
Organization No: 010571

Acronym: World Bridge Steamship Line
DBA Name: NA.
Organization No: 007605

Acronym: Worldwide Container
Transfer Corp.
DBA Name: W.C.T.
Organization No: 008416

Acronym: World Shipping, Inc.
DBA Name: NA.
Organization No: 009607

Acronym: Yota Inc.
DBA Name: NA.
Organization No: 010833

Acronym: Zade, C.A.
DBA Name: NA.
Organization No: 007472

Acronym: Zeederderij "Rijnmond" B.V.
DBA Name: NA.
Organization No: 008141

Acronym: Zhong Shan Transportation
Company Limited
DBA Name: NA.
Organization No: 008095

Part B: Licensed Ocean Freight
Forwarders That Have Not Filed Anti-
Rebate Certifications

Acronym: ABCO Freight Forwarders,
Inc.
DBA Name: NA.
Organization No: 005586

Acronym: Abraham, Daniel
DBA Name: Daniel Abraham Intl Freight
Forwarders
Organization No: 006631

Acronym: ACCO Foreign Shipping, Inc.
DBA Name: NA.
Organization No: 004369

Acronym: Acmetrans Worldwide Cargo
Services, Inc.
DBA Name: NA.
Organization No: 008332

Acronym: Adept International
Forwarders, Inc.
DBA Name: NA.
Organization No: 006600

Acronym: Agricultural Air Exports, Inc.
DBA Name: NA.
Organization No: 004968

Acronym: Aimi Cargo Forwarding, Inc.
DBA Name: NA.
Organization No: 007350

Acronym: Air Ship Packers, Inc.
DBA Name: NA.
Organization No: 004936

Acronym: Air-Oceanic Services, Inc.
DBA Name: NA.
Organization No: 005588

Acronym: Air-Sea Shipping, Inc.
DBA Name: NA.
Organization No: 004638

Acronym: Aleida Customs Brokers Inc.
DBA Name: NA.
Organization No: 009927

Acronym: Alkire, Rosamaria, M.
DBA Name: Hollywood Export
Forwarding Company
Organization No: 010940

Acronym: All Forwarding International
DBA Name: NA.
Organization No: 005596

Acronym: All Transport, Inc.
DBA Name: NA.
Organization No: 005110

Acronym: Almcop Project Transport,
Inc.
DBA Name: NA.
Organization No: 009922

Acronym: American Family Circle, Inc.,
the
DBA Name: Pacific Removal Services,
Inc.
Organization No: 009768

Acronym: American Shipping Company,
Inc.
DBA Name: NA.
Organization No: 004355

Acronym: American World Cargo, Inc.
DBA Name: NA.
Organization No: 010944

Acronym: AMI Sea Freight, Inc.
DBA Name: NA.
Organization No: 004294

Acronym: Antaki, Alan P.
DBA Name: Marli Shipping
Organization No: 010679

Acronym: Associated Customhouse
Brokers, Inc.
DBA Name: Copeland Company
Organization No: 002544

Acronym: Atlantic Air Express, Inc.
DBA Name: NA.
Organization No: 005218

Acronym: Atlantic International Freight
Forwarders, Inc.
DBA Name: NA.
Organization No: 005399

Acronym: Atrade Forwarding Corp.
DBA Name: NA.
Organization No: 010680

Acronym: AVIO International
Forwarders Corp.
DBA Name: NA.
Organization No: 004961

Acronym: B & M International, Inc.
DBA Name: NA.
Organization No: 009358

Acronym: B.L.T. Forwarding Company,
Inc.
DBA Name: NA.

Organization No: 009747

Acronym: B.W.S. Trade Coordinators,
Inc.
DBA Name: NA.
Organization No: 004859

Acronym: Baltimore Shipping Co., Inc.
DBA Name: NA.
Organization No: 006394

Acronym: Bennett, Margaret (Peggy)
Lacock
DBA Name: Pacific Rim Export Services
Organization No: 007892

Acronym: Bill Polkinhorn, Inc.
DBA Name: NA.
Organization No: 004360

Acronym: Bohlander, Frederick J.
DBA Name: NA.
Organization No: 005541

Acronym: Braunkohle Transport USA
Inc.
DBA Name: NA.
Organization No: 007790

Acronym: C&F International, Inc.
DBA Name: NA.
Organization No: 009767

Acronym: C. Itoh Express (America) Inc.
DBA Name: NA.
Organization No: 010936

Acronym: C. Kramer & Associates, Inc.
DBA Name: NA.
Organization No: 009425

Acronym: C. V. International, Inc.
DBA Name: NA.
Organization No: 010919

Acronym: Caltrex Forwarders Corp.
DBA Name: NA.
Organization No: 004846

Acronym: Capital Shipping Corporation
DBA Name: NA.
Organization No: 007355

Acronym: Cari World International, Inc.
DBA Name: NA.
Organization No: 005649

Acronym: Caribe Express, Inc.
DBA Name: NA.
Organization No: 009555

Acronym: Carnisco International
Custom House Brokers,
DBA Name: NA.
Organization No: 009766

Acronym: Century International
Forwarding, Inc.
DBA Name: NA.
Organization No: 009763

Acronym: Chang, Kil Moon
DBA Name: NA.
Organization No: 009495

Acronym: Concept Cargo Inc.
DBA Name: NA.
Organization No: 005077

Acronym: Condor International Freight
Forwarders, Inc.
DBA Name: NA.
Organization No: 008034

Acronym: Consolidated Freight Forwarding International
DBA Name: NA.
Organization No: 004919

Acronym: Continental Forwarding, Inc.
DBA Name: NA.
Organization No: 004238

Acronym: Customs Services, Inc.
DBA Name: NA.
Organization No: 010946

Acronym: D.C. Roque International, Inc.
DBA Name: NA.
Organization No: 006649

Acronym: De Espinosa, Maria Velez
DBA Name: MV Ocean Freight Forwarders
Organization No: 010992

Acronym: Debsar Corporation
DBA Name: NA.
Organization No: 004790

Acronym: Dependable International Services & Transport
DBA Name: NA.
Organization No: 009765

Acronym: District Moving & Storage, Inc.
DBA Name: District Containerized Express
Organization No: 004794

Acronym: DJS International Services, Inc.
DBA Name: NA.
Organization No: 010934

Acronym: Dolphin Brokerage International, Inc.
DBA Name: Dolphin Brokerage International
Organization No: 006597

Acronym: Dupuy Storage and Forwarding Corp.
DBA Name: NA.
Organization No: 004189

Acronym: E & B International, Inc.
DBA Name: NA.
Organization No: 010933

Acronym: Eagle International, Ltd.
DBA Name: NA.
Organization No: 004763

Acronym: EDR International, Inc.
DBA Name: NA.
Organization No: 006422

Acronym: Elite International Transportation Inc.
DBA Name: Elite Inc. in the State of California
Organization No: 010801

Acronym: Emery Distribution Systems, Inc.
DBA Name: Emery Ocean Freight
Organization No: 001232

Acronym: Eng. Jennifer Y.C.
DBA Name: NA.
Organization No: 010829

Acronym: Erting, Jorgen A.
DBA Name: Totaltrans International
Organization No: 004782

Acronym: Esposito, Edward J.
DBA Name: Edward J. Esposito & Co.
Organization No: 005073

Acronym: Evans, Wood and Mooring, Inc.
DBA Name: NA.
Organization No: 008477

Acronym: Ex-Im Business Services Corporation
DBA Name: NA.
Organization No: 005656

Acronym: Export Transports, Inc.
DBA Name: NA.
Organization No: 005509

Acronym: F.H. Fenderson, Inc.
DBA Name: NA.
Organization No: 004686

Acronym: F.E.T. International, Inc.
DBA Name: NA.
Organization No: 005655

Acronym: Farag, Nabil M.
DBA Name: Safeway Shipping Co.
Organization No: 007465

Acronym: Fast Air Sea Transport, Inc.
DBA Name: NA.
Organization No: 005060

Acronym: Fast Shipping Co.
DBA Name: NA.
Organization No: 008689

Acronym: Foreign Freight Forwarding Services of Oregon
DBA Name: NA.
Organization No: 010677

Acronym: Forwarding Services, Inc.
DBA Name: NA.
Organization No: 004291

Acronym: Frady, Rita Rice
DBA Name: Coastal Forwarding
Organization No: 009721

Acronym: Frederic Henjes Jr., Inc.
DBA Name: NA.
Organization No: 004067

Acronym: G.F. International, Inc.
DBA Name: NA.
Organization No: 004665

Acronym: Garden State Maritime Services, Inc.
DBA Name: NA.
Organization No: 005189

Acronym: Gayo International Forwarders, Inc.
DBA Name: NA.
Organization No: 005169

Acronym: General Air Freight Consolidators, Inc.
DBA Name: General Ocean Freight Container Line
Organization No: 009489

Acronym: General Brokerage Services Inc.
DBA Name: NA.
Organization No: 006441

Acronym: Geo. S. Bush & Co., Inc.
DBA Name: NA.
Organization No: 004182

Acronym: Global Transport Services, Inc.
DBA Name: NA.
Organization No: 008447

Acronym: Graulich International, Inc.
DBA Name: NA.
Organization No: 004613

Acronym: Gray, Linda L.
DBA Name: L.G. Enterprises
Organization No: 005465

Acronym: Great American Forwarders, Inc.
DBA Name: NA.
Organization No: 001361

Acronym: Great Bear Transportation, Inc.
DBA Name: NA.
Organization No: 007365

Acronym: H.P. Blanchard & Co.
DBA Name: NA.
Organization No: 010799

Acronym: Hamilton Brothers, Inc.
DBA Name: NA.
Organization No: 008688

Acronym: Hayat Int'l Forwarding Corp.
DBA Name: NA.
Organization No: 004685

Acronym: Henry E. Kloch & Co., Inc.
DBA Name: NA.
Organization No: 004707

Acronym: Home-Pack Transport, Inc.
DBA Name: NA.
Organization No: 001446

Acronym: Horizon Air Freight, Inc.
DBA Name: NA.
Organization No: 004898

Acronym: Howard Hartry, Inc.
DBA Name: NA.
Organization No: 004262

Acronym: Hub Forwarding Company, Inc.
DBA Name: NA.
Organization No: 005226

Acronym: I.F.T.C., Inc.
DBA Name: NA.
Organization No: 005144

Acronym: IEC (America) Inc.
DBA Name: NA.
Organization No: 010781

Acronym: Inexco Corporation
DBA Name: International Express Co.
Organization No: 004818

Acronym: Inter-Cargo, Inc.
DBA Name: NA.
Organization No: 005139

Acronym: Inter-Orient Corporation
DBA Name: NA.
Organization No: 004011

Acronym: Intercontinental Transport Services, Inc.
DBA Name: NA.
Organization No: 008106

| | | |
|--|--|--|
| Acronym: International Cargo Services, Inc. | Acronym: Lift Forwarders Inc. | Acronym: Oceangate Forwarding, Inc. |
| DBA Name: NA. | DBA Name: NA. | DBA Name: NA. |
| Organization No: 010678 | Organization No: 009886 | Organization No: 007381 |
| Acronym: International Freight Services, Inc. | Acronym: Lopez, Blanca R. | Acronym: Oceanland Service Inc. |
| DBA Name: NA. | DBA Name: Aby Forwarding | DBA Name: NA. |
| Organization No: 010830 | Organization No: 005616 | Organization No: 005270 |
| Acronym: International Freight Transport, Inc. | Acronym: M and H Brokerage, Inc. | Acronym: Omega International Inc. |
| DBA Name: NA. | DBA Name: NA. | DBA Name: NA. |
| Organization No: 007367 | Organization No: 004562 | Organization No: 009422 |
| Acronym: Intrepid Shipping Corporation | Acronym: Maki International, Inc. | Acronym: Omni Express International Inc. |
| DBA Name: NA. | DBA Name: NA. | DBA Name: NA. |
| Organization No: 002529 | Organization No: 004659 | Organization No: 005192 |
| Acronym: Ireland, David L. | Acronym: Manaco International Forwarders, Inc. | Acronym: Osowski and Company International, Ltd. |
| DBA Name: CXPORTS | DBA Name: NA. | DBA Name: NA. |
| Organization No: 010682 | Organization No: 004473 | Organization No: 009723 |
| Acronym: ISC Transport, Ltd. | Acronym: Manriquez, Honorato and Manriquez, Rachelle | Acronym: Pan Atlantic Shipping, Inc. |
| DBA Name: NA. | DBA Name: Farber & Company | DBA Name: NA. |
| Organization No: 005271 | Organization No: 004116 | Organization No: 004612 |
| Acronym: J. M. Pietri & Associates, Inc. | Acronym: Marco Forwarding Co. | Acronym: Pasha International, Inc. |
| DBA Name: NA. | DBA Name: NA. | DBA Name: NA. |
| Organization No: 004575 | Organization No: 004743 | Organization No: 006643 |
| Acronym: J. W. Hampton, Jr. & Company, Inc. | Acronym: Marshall, Robert Gage | Acronym: Paul G. Bellack, Inc. |
| DBA Name: NA. | DBA Name: Robert G. Marshall CHB | DBA Name: NA. |
| Organization No: 004209 | Organization No: 005305 | Organization No: 004727 |
| Acronym: Jas Pacific Inc. | Acronym: Martinez, Miriam | Acronym: Paula LaPoint |
| DBA Name: NA. | DBA Name: NA. | DBA Name: Lapointeco |
| Organization No: 010681 | Organization No: 005528 | Organization No: 005593 |
| Acronym: Jodari International Freight Forwarding, Inc. | Acronym: Maurice Pincoffs Company, Inc. | Acronym: Perez International Forwarders, Inc. |
| DBA Name: NA. | DBA Name: NA. | DBA Name: NA. |
| Organization No: 005205 | Organization No: 007863 | Organization No: 004960 |
| Acronym: John V. Carr & Son, Corp. (NY) | Acronym: McClellan, Lavone W. | Acronym: Perry, Shelia |
| DBA Name: NA. | DBA Name: ACTS Custom Brokers | DBA Name: Benchmark Forwarding Company |
| Organization No: 006560 | Organization No: 010907 | Organization No: 009492 |
| Acronym: Jones, Richard L. | Acronym: Mirella Garcia | Acronym: Posey International, Inc. |
| DBA Name: Richard L. Jones | DBA Name: DMM Overseas | DBA Name: NA. |
| Customhouse Broker | Organization No: 007376 | Organization No: 004801 |
| Organization No: 004680 | Acronym: Mountain Air Delivery | Acronym: Pro Security Services, Inc. |
| Acronym: Ken Lehat & Associates, Inc. | DBA Name: NA. | DBA Name: NA. |
| DBA Name: NA. | Organization No: 010991 | Organization No: 005425 |
| Organization No: 008727 | Acronym: Moving & Packing Intl Inc. | Acronym: Rainbow International, Inc. |
| Acronym: Kim, Eugene | DBA Name: NA. | DBA Name: NA. |
| DBA Name: NA. | Organization No: 006494 | Organization No: 009772 |
| Organization No: 002510 | Acronym: Nakamura, Noboru Tom | Acronym: Ralph Valls & Sons, Inc. |
| Acronym: Kin, Akhtar L. Kim | DBA Name: TN Forwarding | DBA Name: NA. |
| DBA Name: INDUS SHIPPING CO | Organization No: 007380 | Organization No: 004435 |
| Organization No: 005379 | Acronym: New York Customs Brokers Inc. | Acronym: Reedy Forwarding Co., Inc. |
| Acronym: Kog Transport, Inc. | DBA Name: NA. | DBA Name: NA. |
| DBA Name: NA. | Organization No: 006496 | Organization No: 004228 |
| Organization No: 005430 | Acronym: New York Forwarding Services, Inc. | Acronym: Reid, Mary M. |
| Acronym: L. A. Express, Inc. | DBA Name: NA. | DBA Name: Reid & Co. |
| DBA Name: NA. | Organization No: 005632 | Organization No: 004373 |
| Organization No: 007862 | Acronym: New York Forwarding, Inc. | Acronym: Resolution, Inc. |
| Acronym: Lancer International Corporation | DBA Name: NA. | DBA Name: Missionary Expeditors, Inc. |
| DBA Name: NA. | Organization No: 010683 | Organization No: 004164 |
| Organization No: 010938 | Acronym: Norvanco, Inc. | Acronym: Richard Murray and Company |
| Acronym: Lasco International, Inc. | DBA Name: NA. | DBA Name: NA. |
| DBA Name: NA. | Organization No: 004853 | Organization No: 004131 |
| Organization No: 007373 | Acronym: Oakland Van & Storage, Inc. | Acronym: Rock-It Cargo USA, Inc. |
| | DBA Name: NA. | DBA Name: NA. |
| | Organization No: 004873 | Organization No: 006509 |

Acronym: Roehlig Forwarding, Inc.
 DBA Name: NA.
 Organization No: 005022
 Acronym: Rome International Freight Consultants, Inc.
 DBA Name: NA.
 Organization No: 004969
 Acronym: S.G.M. International, Inc.
 DBA Name: NA.
 Organization No: 005171
 Acronym: Sack and Menendez, Inc.
 DBA Name: NA.
 Organization No: 004437
 Acronym: Schley International, Inc.
 DBA Name: NA.
 Organization No: 007339
 Acronym: Sea Cargo International, Inc.
 DBA Name: NA.
 Organization No: 005151
 Acronym: Seaway Forwarding Corporation
 DBA Name: Seaway Forwarding Corporation & Danzas Seaway
 Organization No: 004537
 Acronym: Serra International, Inc.
 DBA Name: NA.
 Organization No: 007526
 Acronym: Silvey Shipping Company, Inc.
 DBA Name: NA.
 Organization No: 004271
 Acronym: Southside Shipping Ltd.
 DBA Name: NA.
 Organization No: 010798
 Acronym: Systems American Cargo Corp.
 DBA Name: NA.
 Organization No: 007466
 Acronym: Taki, Yoichiro
 DBA Name: U.S. Transport & Cargo
 Organization No: 006880
 Acronym: Tarnowski, John J.
 DBA Name: TAR-MAC International (TMI)
 Organization No: 009764
 Acronym: Thomas E. Flynn and Co.
 DBA Name: NA.
 Organization No: 004347
 Acronym: Thomas Hudson Enterprises, Inc.
 DBA Name: NA.
 Organization No: 005648
 Acronym: TLR—Total Logistics Resource, Inc.
 DBA Name: TLR—Total Logistics Resource
 Organization No: 004731
 Acronym: Tokin, Albert L., Jr.
 DBA Name: A. L. Tokin Co.
 Organization No: 010939
 Acronym: Total Air & Ocean Services, Inc.
 DBA Name: NA.
 Organization No: 009762
 Acronym: Trans Continental Cargo, Inc.

DBA Name: Freight Forwarding Service
 Organization No: 008707
 Acronym: Trans-Border Customs Services, Inc.
 DBA Name: NA.
 Organization No: 005548
 Acronym: Transintra International Forwarding Co., Inc.
 DBA Name: NA.
 Organization No: 005079
 Acronym: Transworld Freight Systems
 DBA Name: NA.
 Organization No: 010202
 Acronym: Travel All Over The World
 DBA Name: Shipping All Over the World
 Organization No: 004009
 Acronym: Trident Forwarding Service, Inc.
 DBA Name: Trident Forwarding Service
 Organization No: 005071
 Acronym: Triple "B" Packers & Forwarders, Inc.
 DBA Name: NA.
 Organization No: 004958
 Acronym: U—Ocean USA Corp.
 DBA Name: NA.
 Organization No: 006700
 Acronym: U.S. Carriage International, Inc.
 DBA Name: Trident Ocean Services
 Organization No: 006534
 Acronym: United Aero Marine Services, Inc.
 DBA Name: NA.
 Organization No: 007389
 Acronym: Universal Freight Forwarders Ltd.
 DBA Name: NA.
 Organization No: 004979
 Acronym: Universal Transportation Systems, Ltd.
 DBA Name: NA.
 Organization No: 005390
 Acronym: V. G. Nahrgang Co.
 DBA Name: NA.
 Organization No: 004133
 Acronym: Vandegrift Forwarding Company, Inc.
 DBA Name: NA.
 Organization No: 004208
 Acronym: Victory Van Lines, Inc.
 DBA Name: NA.
 Organization No: 009770
 Acronym: Vimar Transportation Consultants, Inc.
 DBA Name: NA.
 Organization No: 005483
 Acronym: Vital International Freight Services, Inc.
 DBA Name: NA.
 Organization No: 006558
 Acronym: W. G. Carroll, Inc.
 DBA Name: NA.
 Organization No: 004064

Acronym: W. N. Proctor Co., Inc.
 DBA Name: NA.
 Organization No: 004311
 Acronym: Watkins, Thomas L.
 DBA Name: NA.
 Organization No: 004611
 Acronym: Wayne M. Withrow & Co.
 DBA Name: NA.
 Organization No: 004219
 Acronym: Westfeldt Brothers Forwarders, Inc.
 DBA Name: NA.
 Organization No: 004106
 Acronym: William B. Skinner, Inc.
 DBA Name: NA.
 Organization No: 009877
 Acronym: Winair Freight, Inc.
 DBA Name: NA.
 Organization No: 004747
 Acronym: Wisconsin Export Services, Inc.
 DBA Name: NA.
 Organization No: 010990
 Acronym: Wood, Niebuhr and Co., Inc.
 DBA Name: NA.
 Organization No: 004381
 Acronym: World Logistics Systems (New York) Inc.
 DBA Name: NA.
 Organization No: 004900
 Acronym: World Trade Transport Virginia Incorporated
 DBA Name: NA.
 Organization No: 007904

Bureau of Tariffs, Certification and Licensing Office of Tariffs

Part C: Common Carriers by Water in the Foreign Commerce of the United States That Are Also Licensed Ocean Freight Forwarders That Have Not Filed Anti-Rebate Certifications

Acronym: Action Customs Expeditors, Inc.
 DBA Name: A.C.E. Lines
 Organization No: 008000
 Acronym: Allport Freight, Inc.
 DBA Name: NA.
 Organization No: 007135
 Acronym: C.E.I. Worldwide, Inc.
 DBA Name: NA.
 Organization No: 009648
 Acronym: Cargo Forwarding Inc.
 DBA Name: NA.
 Organization No: 000685
 Acronym: Dal Farra Co. Inc.
 DBA Name: NA.
 Organization No: 009728
 Acronym: International Container Transport, Inc.
 DBA Name: NA.
 Organization No: 009616
 Acronym: International Freight Transport, Inc.

DBA Name: NA.
 Organization No: 008499
 Acronym: Kintetsu Intermodal (USA) Inc.
 DBA Name: NA.
 Organization No: 006478
 Acronym: La Rosa Del Monte Express Inc.
 DBA Name: NA.
 Organization No: 008694
 Acronym: Latin American Express Corp.
 DBA Name: Lamex
 Organization No: 004904
 Acronym: Maruzen of America, Inc.
 DBA Name: Maruzen Container Lines (U.S.A.)
 Organization No: 004804
 Acronym: Memphis Compress & Storage Company
 DBA Name: Mallory Transportation System
 Organization No: 002002
 Acronym: Overbruck International, Inc.
 DBA Name: Overbruck Maritime Lines
 Organization No: 008889
 Acronym: Pro-Service Forwarding Co., Inc.
 DBA Name: NA.
 Organization No: 007342
 Acronym: Ros Forwarding, Inc.
 DBA Name: NA.
 Organization No: 004587
 Acronym: Rose International Inc.
 DBA Name: Rose Maritime Container Line
 Organization No: 009543
 Acronym: Sea Express International, Inc.
 DBA Name: Sea Express Lines
 Organization No: 005227
 [FR Doc. 92-12508 Filed 5-28-92; 8:45 am]
 BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Barnett Banks, Inc.; Notice of Application to Engage *de novo* in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal

Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 22, 1992.

A. Federal Reserve Bank of Atlanta
 (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Barnett Banks, Inc.*, Jacksonville, Florida; to engage *de novo* through its subsidiary, Barnett Leasing Company, Jacksonville, Florida, in the leasing, and acting as agent, broker, or advisor in leasing, of real or personal property, pursuant to § 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 22, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-12543 Filed 5-28-92; 8:45 am]

BILLING CODE 6210-01-F

Cascade Bancor I, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for

processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 22, 1992.

A. Federal Reserve Bank of Chicago
 (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Cascade Bancor I, Inc.*, Cascade, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Cascade Bancorporation, Inc., Altoona, Iowa, and thereby indirectly acquire State Bank of Cascade, Cascade, Wisconsin, and State Bank of Wabeno, Wabeno, Wisconsin.

B. Federal Reserve Bank of St. Louis
 (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Bancorp of Mississippi, Inc.*, Tupelo, Mississippi; to acquire 100 percent of the voting shares of Volunteer Bancshares, Inc., Jackson, Tennessee, and thereby indirectly acquire Jackson National Bank, Jackson, Tennessee, Milan Banking Company, Milan, Tennessee, First National Bank of Selmer, Selmer, Tennessee, and Citizens State Bank, Trenton, Tennessee.

Board of Governors of the Federal Reserve System, May 22, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-12544 Filed 5-28-92; 8:45 am]

BILLING CODE 6210-01-F

Commerzbank Aktiengesellschaft, Frankfurt, Germany; Application to Execute and Clear Futures Contracts

Commerzbank Aktiengesellschaft, Frankfurt, Germany ("Commerzbank"), has applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) ("BHC Act") and § 225.23(a) of the Board's Regulation Y (12 CFR 225.23(a)), to engage *de novo* through its subsidiary, CB Clearing, Inc., Chicago, Illinois, in the following activities:

(1) Clearing orders on futures contracts and options on futures contracts for bullion, foreign exchange, government securities, certificates of

deposit, and other money market instruments that a bank may buy or sell in the cash market for its own account pursuant to § 225.25(b)(18) of the Board's Regulation Y (12 CFR 225.25(b)(18));

(2) Clearing and executing orders on certain futures and options on futures contracts on the Chicago Mercantile Exchange ("CME") and the Board of Trade of the City of Chicago ("CBOT") that have been approved by the Board by order;

(3) Clearing preauthorized orders executed by preapproved execution groups on certain futures and options on futures contracts on the CME and the CBOT that have been approved by the Board by order;

(4) Purchasing and selling, on the order of unaffiliated persons through omnibus customer accounts, futures contracts and options on futures contracts for bullion, foreign exchange, government securities, certificates of deposit, and other money market instruments that a bank may buy or sell in the cash market for its own account;

(5) Purchasing and selling, on the order of unaffiliated persons, contracts and options on contracts which are traded on exchanges other than the CME or CBOT; and

(6) Offering data processing services pursuant to § 225.24(b)(7) of the Board's Regulation Y (12 CFR 225.25(b)(7)). Commerzbank proposes to conduct these activities throughout the United States and the world.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board, after due notice and opportunity for hearing, has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." Commerzbank believes that these proposed activities are "so closely related to banking or managing or controlling banks as to be a proper incident thereto."

Commerzbank states that, by either regulation or order, the Board has authorized bank holding companies to execute, clear, or purchase or sell on the order of unaffiliated parties all but two of the futures or options on futures contracts that Commerzbank proposes to clear, execute, or purchase or sell on the order of unaffiliated parties. Commerzbank also states that, pursuant to Regulation Y, the Board has approved each of the exchanges on which Commerzbank has proposed to conduct the proposed activities, except the Deutsche Terminborse GmbH. See, e.g., 12 CFR 225.25(b)(18); *The Sanwa Bank, Limited*, 77 Federal Reserve Bulletin 64 (1991); *The Hongkong and Shanghai*

Banking Corporation, 76 Federal Reserve Bulletin 770 (1990); *Citicorp*, 76 Federal Reserve Bulletin 664 (1990); *Chemical Banking Corporation*, 76 Federal Reserve Bulletin 660 (1990); *BankAmerica Corporation*, 75 Federal Reserve Bulletin 78 (1989); *Northern Trust Corporation*, 74 Federal Reserve Bulletin 333 (1988); *Chase Manhattan Corporation*, 72 Federal Reserve Bulletin 203 (1986); and, *Manufacturers Hanover Corporation*, 72 Federal Reserve Bulletin 144 (1986). Commerzbank contends that its proposed futures commission merchant ("FCM") activities are either those approved by the Board by regulation or order or are functionally similar to FCM activities previously approved by the Board.

Commerzbank has requested authority to purchase or sell on customer order, through omnibus customer accounts, two futures contracts, one based on the Deutsche Aktienindex and one based on German government bonds, that are traded on the Deutsche Terminborse GmbH. The Board has not determined that this activity is closely related to banking and a proper incident thereto under section 4(c)(8), although the Board has approved the activity under the Board's Regulation K (12 CFR part 211). See Letter to Edmund P. Rogers, from Jennifer J. Johnson, dated June 29, 1990, 76 Federal Reserve Bulletin 881 (1990).

In determining whether an activity meets the proper incident to banking test of section 4(c)(8), the Board must consider whether the performance of the activity by an affiliate of a holding company "can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Commerzbank contends that the proposed activities will benefit the public. It believes that they will promote competition and provide added convenience to customers and gains in efficiency. Moreover, Commerzbank believes that the proposed activities will not result in any unsound banking practices.

In publishing this proposal for comment, the Board does not take any position on the issues raised by the proposal under the BHC Act. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets or is likely to meet the standards of the BHC Act.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than June 25, 1992. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, May 22, 1992.

Jennifer J. Johnson,
Associate Secretary of the Board.
[FR Doc. 92-12545 Filed 5-28-92; 8:45 am]
BILLING CODE 6210-01-F

Charles H. Weissinger, Jr., et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 18, 1992.

A. Federal Reserve Bank of St. Louis
(Randall C. Sumner, Vice President) 411
Locust Street, St. Louis, Missouri 63166:

1. *Charles H. Weissinger, Jr.*, Rolling Fork, Mississippi, Anne Wynn Weissinger, Rolling Fork, Mississippi, Martha Wynn Weissinger, Greenville, Mississippi, and Margaret W. Wynn, Jackson, Mississippi; to acquire an aggregate 45.70 percent (or 11.42 percent individually) of the voting shares of Southeast Arkansas Bank Corporation,

Lake Village, Arkansas, and thereby indirectly acquire Bank of Lake Village, Lake Village, Arkansas, for total aggregate ownership of 49.07 percent. As husband and wife, Charles and Anne Weissinger will vote the largest block of individually controlled shares of the holding company at 24.15 percent.

B. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Chesley Pruet*, El Dorado, Arkansas; to acquire an additional 12.43 percent, for a total of 24.85 percent, of the voting shares of Continental National Bancshares, Inc., El Paso, Texas, and thereby indirectly acquire Continental National Bank, El Paso, Texas.

Board of Governors of the Federal Reserve System, May 22, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-12546 Filed 5-28-92; 8:45 am]

BILLING CODE 621001-F

GENERAL SERVICES ADMINISTRATION

Information Collection Activities Under Office of Management and Budget Review

AGENCY: Office of GSA Acquisition Policy (VP), GSA.

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection, 3090-0247, Procurement Integrity. This requires offerors for a contract, modification or extension, in excess of \$100,000 to certify that neither the firm, nor its officers, employees, agents or consultants, during the conduct of a Federal agency procurement offered future employment opportunities or a gratuity to a Government Procurement official, or solicited proprietary of source selection information from any official of that agency.

ADDRESSES: Send comments to Ed Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), 18th & F Street NW., Washington, DC 20405.

Annual reporting burden:

Respondents: 800; annual responses: 1;
average hours per response: .0834;
burden hours: 66.7

FOR FURTHER INFORMATION CONTACT: Ida M. Ustad, (202) 501-1224. Copy of Proposal: May be obtained from the Information Collection Management

Branch (CAIR), 7102, GSA Building, 18th & F St. NW., Washington, DC 20405, by telephoning (202) 501-2691, or by faxing your request to (202) 501-2727.

Dated: May 21, 1992.

Emily C. Karam,

Director, Information Management Division.

[FR Doc. 92-12584 Filed 5-28-92; 8:45 am]

BILLING CODE 6820-61-M

Information Collection Activities Under Office of Management and Budget Review

AGENCY: Concessions Branch (PMFC), GSA.

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection, 3090-0021, Profit and Loss Statement—Operating Statement, GSA Form 2817. This form is used by offerors submitting proposals to perform GSA food service contracts.

ADDRESSES: Send comments to Ed Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), 18th & F Street NW., Washington, DC 20405.

Annual reporting burden:

Respondents: 250; annual responses: 1;
average hours per response: 1;
burden hours: 250.

FOR FURTHER INFORMATION CONTACT: Deborah Purdie, (202) 501-0542. Copy of Proposal: May be obtained from the Information Collection Management Branch (CAIR), 7102, GSA Building, 18th & F St. NW., Washington, DC 20405, by telephoning (202) 501-2691, or by faxing your request to (202) 501-2727.

Dated: May 21, 1992.

Emily C. Karam,

Director, Information Management Division.

[FR Doc. 92-12585 Filed 5-28-92; 8:45 am]

BILLING CODE 6820-23-M

Information Collection Activities Under Office of Management and Budget Review

AGENCY: Office of GSA Acquisition Policy (VP), GSA.

SUMMARY: The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection, 3090-0080, GSAR Part 532 Contract Financing, GSA Form 1142. This form is used by GSA regions or the contractors

to ensure that all adjustments and claims have been made before contract closeout. Building service contractors are required to submit a release of claims before final payment.

ADDRESSES: Send comments to Ed Springer, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), 18th & F Street NW., Washington, DC 20405.

Annual reporting burden:

Respondents: 2000; annual responses: 1; average hours per response: .1; burden hours: 200.

FOR FURTHER INFORMATION CONTACT: Ida M. Ustad, (202) 501-1224. Copy of Proposal: May be obtained from the Information Collection Management Branch (CAIR), 7102, GSA Building, 18th & F St., NW., Washington, DC 20405, by telephoning (202) 501-2691, or by faxing your request to (202) 501-2727.

Dated: May 20, 1992.

Emily C. Karam,

Director, Information Management Division.

[FR Doc. 92-12586 Filed 5-28-92; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

National Institute on Alcohol Abuse and Alcoholism; Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of an advisory committee of the National Institute on Alcohol Abuse and Alcoholism for July 1992.

The initial review group will be performing review of applications for Federal assistance; therefore, a portion of this meeting will be closed to the public as determined by the Acting Administrator, ADAMHA, in accordance with 5 U.S.C. 552b(c)(6) and 5 U.S.C. app. 2 10(d).

A summary of the meeting and roster of committee members may be obtained from: Ms. Diana Widner, NIAAA Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration, Parklawn Building, room 18C-20, 5600 Fishers Lane, Rockville, MD 20857 (Telephone: 301-443-4375).

Substantive program information may be obtained from the contact whose name, room number, and telephone number is listed below.

Committee Name: Immunology and AIDS Subcommittee of the Alcohol Biomedical Research Review Committee.

Meeting Dates: July 9-10, 1992.

Place: Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, MD 20852.

Open: July 9, 8:30 a.m.-9:30 p.m.

Closed: Otherwise.

Contact: Barbara Smothers, Ph.D., Rm. 16C-26, Parklawn Bldg. Phone (301) 443-6106.

Dated: May 26, 1992.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 92-12648 Filed 5-28-92; 8:45 am]

BILLING CODE 4160-20-M

National Institute of Mental Health; Meetings

Pursuant to Public Law 92-463, notice is hereby given of the meetings of the advisory committees of the National Institute of Mental Health for July 1992.

The initial review groups will be performing review of applications for Federal assistance; therefore, portions of these meetings will be closed to the public as determined by the Acting Administrator, ADAMHA, in accordance with 5 U.S.C. 552b(c)(6) and 5 U.S.C. app. 2 10(d).

The Extramural Science Advisory Board, NIMH, will be discussing treatment resistant issues.

Summaries of the meetings and rosters of committee members may be obtained from: Ms. Joanna L. Kieffer, NIMH Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration, Parklawn Building, room 9-105, 4600 Fishers Lane, Rockville, MD 20857 (Telephone: 301-443-4333).

Substantive program information may be obtained from the contacts whose names, room numbers, and telephone numbers are listed below.

Committee Name: Child Psychopathology and Treatment Review Committee.

Meeting Date: July 1-3, 1992.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD. 20814.

Open: July 1, 9-10 a.m.

Closed: Otherwise.

Contact: Frances Smith, room 9C-14, Parklawn Building, Telephone (301) 443-1367.

Committee Name: Mental Health Small Business Research Review Committee.

Meeting Date: July 9-10, 1992.

Place: Washington Marriott Hotel, 1221 22nd Street, NW., Washington, DC 20037.

Open: July 9, 9-10 a.m.

Closed: Otherwise.

Contact: William Saunders, 9C-14, Parklawn Building, Telephone (301) 443-1367.

Committee Name: Extramural Science Advisory Board, NIMH.

Meeting Date: July 13-14, 1992.

Place: Building 31, Conference Room 10, National Institutes of Health, 9000 Wisconsin Avenue, Bethesda, MD 20892.

Open: July 13 and 14, 8:30 a.m.-5 p.m.

Contact: Anthony Pollitt, 17C-26, Parklawn Building, Telephone (301) 443-3175.

Dated: May 26, 1992.

Peggy W. Cockrill,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration

[FR Doc. 92-12649 Filed 5-28-92; 8:45 am]

BILLING CODE 4160-20-M

Food and Drug Administration

[Docket No. 91A-0330]

Calgene, Inc.; Request for Advisory Opinion

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of request for advisory opinion; request for comments.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Calgene, Inc., has requested consultation with the agency regarding the status of FLAVR SAVR™ tomatoes.

DATES: Written comments by July 28, 1992.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: James H. Maryanski, Center for Food Safety and Applied Nutrition (HFF-300), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-36717.

SUPPLEMENTARY INFORMATION: FDA is announcing that Calgene, Inc., (Calgene) 1920 Fifth St., Davis, CA 95616, is seeking consultation with FDA concerning the FLAVR SAVR™ tomato, a product of a new plant variety developed using recombinant deoxyribonucleic acid (DNA) techniques. Specifically, Calgene has asked for an advisory opinion concerning whether FLAVR SAVR™ tomatoes are food and, therefore, subject to the same regulation as other tomato varieties. Calgene's request contains information that pertains to the genetic and chemical composition of the FLAVR SAVR™ tomato.

The techniques of gene transfer (e.g., recombinant DNA techniques) permit scientists to introduce specific, well-characterized genes into plants to develop new varieties that exhibit useful traits. In this instance, a gene has been introduced into tomatoes that produces,

as messenger ribonucleic acid (mRNA), an antisense copy of the polygalacturonase gene. This antisense mRNA suppresses the production of an enzyme normally present in tomatoes, polygalacturonase, that is associated with the breakdown of pectin, a constituent of the cell wall in tomato fruit. Calgene states that reducing the amount of polygalacturonase in tomatoes results in ripe fruit that remains intact for an extended period. Thus, fresh market tomatoes can be vine-ripened for enhanced flavor and may have a longer shelf life. The firm also states that this new variety of tomato will exhibit improved viscosity when used in food processing.

The FLAVR SAVR™ tomato contains the kanamycin resistance gene that was used as a selectable marker to develop the new variety. The kanamycin resistance gene is the subject of a previous advisory opinion request submitted by Calgene (56 FR 20004, May 1, 1991).

The Federal Food, Drug, and Cosmetic Act (the act) provides FDA with broad authority to ensure the safety and wholesomeness of food, empowering the agency to initiate legal action against a food that is found to be adulterated or misbranded within the meaning of the act. Consequently, firms frequently consult with the agency concerning potential safety and regulatory issues that may be associated with food products developed through new technology. FDA believes that such consultations are important for the agency to be knowledgeable about current methods of food production and to carry out its responsibility to protect public health.

Elsewhere in this issue of the Federal Register, FDA is issuing a policy statement which clarifies the agency's interpretation of the act with respect to foods derived from new plant varieties, including plants derived from recombinant DNA techniques. Because Calgene's request concerning the FLAVR SAVR™ tomato preceded the finalization of that policy statement, FDA advised the firm to submit the information about the tomato initially as a request for advisory opinion under § 10.85 (21 CFR 10.85). As the agency advises in the policy statement, however, future requests for consultation with FDA would be made consistent with the principles outlined in that statement. For this reason, FDA does not contemplate that future producer requests comparable to the request of Calgene will be filed under § 10.85.

In its request, Calgene claimed that the FLAVR SAVR™ tomato is a food that is subject to a categorical exclusion from the National Environmental Policy Act (21 CFR 25.24(b)(7)). Calgene noted that an environmental assessment was filed in its submission on the use of the kanamycin resistance gene (Docket No. 90A-0416). The firm also noted that: (1) Environmental assessments with findings of no significant impact have been prepared in conjunction with field trials of the FLAVR SAVR™ tomato conducted under U.S. Department of Agriculture (USDA) regulations, and (2) environmental issues associated with the commercial growing of FLAVR SAVR™ tomatoes will be addressed as part of the firm's submission to USDA for exemption from the permit requirement under the Plant Pest Act (7 CFR part 340).

FDA believes that the decision as to whether Calgene must file an environmental assessment may depend upon the regulatory status of the FLAVR SAVR™ tomato. Therefore, FDA is deferring a statement of its position on whether Calgene must file an environmental assessment for the FLAVR SAVR™ tomato until the agency responds to Calgene's request, at which time FDA will also address whether an environmental assessment is required.

FDA encourages interested parties to submit comments on Calgene's request regarding both human and animal food safety and environmental safety, particularly with respect to the following:

1. Any relevant scientific issues that have not been addressed in the submission, including comments on environmental safety issues that were not addressed previously in the advisory opinion request on the use of the kanamycin resistance gene; and
2. Any available substantive information that bears on the relevant scientific issues.

FDA has received comments from interested parties in response to the Federal Register notice of May 1, 1991, concerning the use of the kanamycin resistance gene, including its use in the agency's review of the current request. Therefore, these comments need not be resubmitted in response to this notice.

FDA has filed Calgene's request at the Dockets Management Branch (address above). The filing by the agency of an advisory opinion request is a procedural matter and does not obligate the agency to issue such an opinion, nor does such filing reflect an agency decision on the substantive merits of the request.

The agency is not required to publish a notice of filing of a request for a formal advisory opinion, and, therefore,

does not routinely publish such notices. However, FDA believes that publication of this notice is in the public interest because the agency requests comments from interested members of the public, industry, and other governmental agencies, and because this is the first such request made to FDA regarding the status of a whole food produced by the new methods of gene transfer.

Interested persons may, on or before July 28, 1992, review the request or file comments (four copies, identified with the docket number found in brackets in the heading of this document) with the Dockets Management Branch (address above). A copy of the request and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 2, 1992.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 92-12659 Filed 5-26-92; 3:57 pm]

BILLING CODE 4160-01-M

[Docket No. 92E-0115]

Determination of Regulatory Review Period for Purposes of Patent Extension; Acel-Imune®; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the Federal Register of May 1, 1992 (57 FR 18887), that announced its determination of the regulatory review period for purposes of patent extension for Acel-Imune® (Diphtheria and Tetanus Toxoids and Acellular Pertussis Vaccine Adsorbed). The document was published with some inadvertent mathematical errors. The document stated, "Of this time, 400 days occurred during the testing phase of the regulatory review period, while 1,602 days occurred during the approval phase." It should have stated, "Of this time, 434 days occurred during the testing phase of the regulatory review period, while 1,568 days occurred during the approval phase." This document corrects those errors.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

In FR Doc. 92-10141, appearing on page 18887 in the Federal Register of Friday, May 1, 1992, the following corrections are made: On page 18888, in the first column, in the second complete paragraph, in line 4, "400" is corrected to

read "434"; and in line 6, "1,602" is corrected to read "1,568".

Dated: May 21, 1992.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 92-12547 Filed 5-28-92; 8:45 am]

BILLING CODE 4160-01-F

Health Care Financing Administration

[BPD-739-FN]

RIN 0938-AF55

Medicare Program; Recognition of the Community Health Accreditation Program Standards for Home Care Organizations

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final notice.

SUMMARY: This final notice recognizes accreditation by the Community Health Accreditation Program (CHAP), a subsidiary of the National League for Nursing (NLN), for home health agencies (HHAs) that wish to participate in the Medicare Program. As a result of this recognition, HHAs accredited by CHAP are deemed to meet the Medicare conditions of participation for HHAs to the extent described in this notice. This final notice sets forth certain specific requirements with which CHAP must comply to maintain Medicare recognition of its HHA accreditation program.

EFFECTIVE DATE: The provisions of this notice are effective August 27, 1992.

FOR FURTHER INFORMATION CONTACT: John J. Thomas, (410) 966-4623

SUPPLEMENTARY INFORMATION

I. Background

Providers of health care services participate in the Medicare program in accordance with a provider agreement. Generally, in order to enter into a provider agreement, an entity must first be certified by a State survey agency as complying with the requirements set forth in Federal law and regulations. Providers are subject to regular surveys by State survey agencies to ensure that the providers continue to meet these requirements.

The Social Security Act (the Act) includes provisions that permit exemption of certain providers of services from routine surveys by State survey agencies for determining compliance with Medicare conditions of participation. Specifically, section 1865(a) of their Act permits the "deeming" of providers as meeting the

applicable Medicare conditions if the providers are accredited by a national accrediting organization. That is, if we find that the accreditation of providers by a national accrediting body provides reasonable assurance that the Medicare conditions of participation are met, then we may deem these providers as meeting the conditions of participation.

A national accrediting organization may request that we recognize its program as providing reasonable assurance that some or all of the Medicare conditions are met. We then examine the requesting organization's accreditation process to determine if the process provides reasonable assurance that the providers accredited by the organization meet the Medicare conditions of participation as we would apply them. If we recognize an accrediting organization in this manner, any provider accredited by the recognized national accrediting body will be deemed to meet the Medicare conditions of participation and will, therefore, not be subject to routine surveys by the State survey agency.

As a result of this notice, HHAs accredited by CHAP are considered to meet the requirements for participation in the Medicaid program as a provider of home health services. We are currently considering the development of a separate rule that would permit the States to apply State-specific requirements for HHA participation in the Medicaid program. However, our recognition of CHAP does not affect in any way a State's independent authority to license providers and inspect such providers to ensure compliance with its licensure standards.

In section 4039(f) of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100-203), Congress imposed a special requirement on our approval of national accrediting organizations. Under that section, publication of a final notice recognizing accreditation by a national organization as deeming a provider to meet the applicable Medicare conditions of participation or requirements is necessary to implement section 1865(a) of the Act. Publication of the final notice must follow the publication of a proposed notice by at least 6 months.

II. Provisions of the Proposed Notice and This Final Notice

In the September 5, 1991 proposed notice (56 FR 43929), we stated our belief that accreditation by CHAP provides reasonable assurance that an HHA meets the Medicare conditions of participation for HHAs. We also described our initial review of the CHAP home care standards ("Standards of Excellence for Home Care

Organizations", NLN Pub. No. 21-2327), our meeting with CHAP staff, and our subsequent comparison of CHAP's revised 1991 standards for HHAs seeking accreditation or re-accreditation with the Medicare conditions of participation and survey and certification procedures.

The proposed notice described our process for determining that CHAP accreditation provided reasonable assurance that Medicare conditions are met. The proposed notice also discussed in detail the areas of discrepancy between the CHAP standards and Medicare conditions, the effect these discrepancies had on our determination of reasonable assurance, and the resolution of these discrepancies.

In addition, the proposed notice stated that we would remove recognition of CHAP accreditation if either of the following circumstances occur:

- CHAP revises its standards so that the revised standards fail to provide reasonable assurance that CHAP-accredited HHAs meet the Medicare conditions of participation. Conversely, we revise the HHA conditions to a degree that the CHAP standards or accreditation policies no longer provide reasonable assurance that the CHAP-accredited HHAs meet the conditions of participation.

- Our validation or complaint surveys reveal widespread, systematic, or unresolvable problems with the CHAP accreditation process, thereby providing evidence that there is not reasonable assurance that CHAP-accredited HHAs meet the Medicare conditions of participation.

The proposed notice also set forth the following conditions for the continued recognition of the CHAP accreditation program:

- CHAP must continue to agree to release CHAP survey reports to us routinely and to the public upon request. If the reports reveal deficiencies that we believe warrant action by us, we may survey the HHAs identified as having deficiencies, withdraw recognition of the accreditation program if appropriate, and apply any other appropriate corrective measures or sanctions.

- CHAP must report to either the Department's Office of the Inspector General or the State agency responsible for investigating fraud and abuse for Medicaid, or both, complaints received from persons working in an accredited HHA or any substantial complaints from others, anonymous or identified, concerning potential fraud and abuse violations, and any other indication of a Medicare or Medicaid program abuse encountered by CHAP during a CHAP inspection.

- CHAP must make its surveyors available to serve as witnesses if adverse action is taken by us after CHAP accreditation has been withdrawn.

In the proposed notice, we discussed two issues that need further clarification. First, we proposed to remove our recognition of CHAP accreditation if we determine that CHAP standards no longer provide reasonable assurance that CHAP-accredited HHAs meet the Medicare conditions of participation. We did not, however, set forth our specific procedures for determining whether CHAP-accredited HHAs meet the conditions of participation in the event our recognition of CHAP is withdrawn. Basically, an affected HHA's deemed status would continue for a limited time during which the HHA could seek to obtain either Medicare certification or accreditation by another approved accreditation organization. A further explanation of this issue is contained below in a response to a comment.

Second, when we developed the proposed notice, we did not consider the effect of the provisions of section 4206 of Public Law 101-508 that concern advance directives. CHAP accreditation standards have been revised to provide assurance that CHAP-accredited HHAs provide each patient, in advance of coming under the HHA's care, with written information concerning an individual's rights under State law to make decisions concerning medical care. These rights include the right to accept or refuse medical or surgical treatment, the right to formulate advance directives, and the right to review the written policies of the HHA regarding the implementation of these rights, including a statement of limitation if the provider cannot implement an advance directive on the basis of conscience.

In this final notice, we are adopting the provisions in the September 5, 1991 proposed notice with the above clarifications. As a result of this final notice, HHAs accredited by CHAP will not be subject to routine inspection by Medicare State survey agencies to determine their compliance with Federal requirements. Rather, they will be deemed to meet the Medicare conditions of participation. As appropriate, however, we will perform announced and unannounced validation and complaint surveys of HHAs to ensure that CHAP-accredited HHAs that participate in Medicare meet the Medicare conditions of participation. As established in the proposed notice of September 5, 1991, we may withdraw

recognition of CHAP accreditation of HHAs at any time if we determine that CHAP accreditation does not continue to provide reasonable assurance that Medicare conditions of participation are met.

In conclusion, we believe that the CHAP accreditation standards and survey processes, subject to the above requirements, provide us with reasonable assurance that the Medicare conditions of participation have been met. Accordingly, subject to those requirements, we will deem HHAs accredited by CHAP beginning August 28, 1992 to be in compliance with the Medicare conditions of participation for HHAs in accordance with the authority provided by section 1865 of the Act.

Because we have found accreditation by CHAP to provide the necessary "reasonable assurance" required by law, and because the publication of this final notice follows the publication of our September 5, 1991, proposed notice by at least 6 months as required by section 4039(f) of Public Law 100-203, we have fulfilled the statutory requirements governing the recognition of national accrediting organizations. Therefore, our recognition of CHAP's HHA accreditation program is complete with the publication of this notice, subject to CHAP's continued compliance with the requirements established in this final notice.

III. Discussion of Comments

We received correspondence from 260 commenters, including professional organizations and associations, HHAs, public health departments, State governmental agencies, universities, elected officials, and individuals on the provisions of the proposed notice. Approximately 225 of these comments were substantially identical letters favoring our recognition of the CHAP accreditation program standards. A summary of the public comments and our responses follow.

Comment: Many commenters expressed support for the proposed notice.

Response: We acknowledge the support for the provisions in the proposed notice and we have developed a final notice consistent with those provisions.

Comment: Several commenters expressed concern that CHAP accreditation does not provide reasonable assurance that Medicare requirements are met because, in general, private accreditation organizations are financially dependent upon the accreditation fees paid by accredited providers. These commenters are concerned that CHAP will be

reticent to withdraw accreditation from an HHA because a withdrawal would preclude the collection of any future accreditation fees from the sanctioned agency.

Response: We do not agree with this comment. Our examination of the CHAP accreditation program revealed no indication that CHAP was unwilling to revoke an HHA's accreditation for fear of being deprived of that agency's accreditation fees. Furthermore, as one of the conditions upon which recognition of accreditation is granted to CHAP, we retain the right to withdraw the recognition if, as specified at the end of this notice, "validation or complaint surveys reveal widespread, systematic, or unresolvable problems with the CHAP accreditation process, thereby providing evidence that there is not reasonable assurance that CHAP-accredited HHAs meet the Medicare conditions of participation". If we ever determine that CHAP, in contradiction to its own guidelines, is continuing accreditation to HHAs not meeting the Medicare conditions of participation, we will move to withdraw recognition of CHAP accreditation.

Comment: Several commenters opposed recognition of CHAP accreditation on the general basis that HHA survey and certification are government responsibilities that should not be delegated to private organizations. Similarly, another commenter opposed our proposal because she believes the opportunity for public comment and input to the survey and certification process will be reduced if deemed status is granted to private organizations that she views as "not accountable to the public."

Response: We disagree with both of the issues raised by the commenters. Congress initially recognized only hospitals accredited by the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO) as deemed to meet Medicare conditions. Subsequent revisions to section 1865 of the Act, however, demonstrate that Congress clearly envisions recognition of other private organizations that accredit a variety of Medicare providers and suppliers. The paragraph following section 1865(a)(4) of the Act specifically enumerates the types of providers and suppliers that may be deemed to meet our requirements if accredited by a national accrediting organization.

With regard to the commenter's concern that public input will be reduced by recognition of CHAP accreditation, we do not agree. CHAP policies call for extensive public disclosure and consumer involvement in decisions regarding HHA accreditation.

The CHAP Board of Review, which is responsible for decisions regarding the accreditation status of applicant providers, consists equally of health care experts or consumers and home or community health care providers. In addition, we plan to conduct unannounced validation surveys of CHAP-accredited HHAs on a random sample basis to validate compliance with Medicare conditions by CHAP-accredited HHAs and to respond to public complaints. The Act allows us to release CHAP survey information to the public. Also, States will maintain their toll-free hotlines for members of the public who wish to complain or comment on specific HHAs.

Comment: Several commenters opposed the proposal to recognize CHAP accreditation on the basis that it would require HHAs to pay accreditation fees to CHAP, therefore shifting the financial burden of HHA survey and certification from the government to the individual home health providers.

Response: CHAP accreditation will continue to be voluntary. Our recognition of CHAP accreditation does not mean that HHAs are required to seek CHAP accreditation. Those HHAs that are not accredited by CHAP will continue to be subject to the annual surveys conducted by the State survey agencies. These HHAs will not experience any change from their current survey and certification process as a result of HCFA's recognition of CHAP accreditation. In addition, because accreditation expenses are among the costs recognized by Medicare as related to patient care, Medicare will share in the costs of HHA accreditation on the basis of utilization.

Comment: One commenter opposed the proposal on the basis that it would result in a reduction of Federal funds directed to State survey and enforcement of Medicare home health requirements.

Response: The level of funding of the State's survey agency will continue to be based on its survey and enforcement workload. Funding of the State survey agencies will be commensurate with workload and the number of agencies involved.

Comment: Some commenters expressed concern that CHAP's system of conducting surveys during a 3-year cycle will result in less effective surveillance of critical health and safety requirements than the Medicare survey system.

Response: CHAP conducts annual, unannounced site visits. Each of these

visits is, on its own, equivalent to a Medicare standard survey.

CHAP conducts its annual, unannounced site visits during a 3-year accreditation cycle. Each accreditation cycle is initiated by a full self-study and site visit. Site visits in years two and three focus on all of CHAP's quality assurance standards and selected standards related to administrative functions. These visits may be extended by the CHAP site visitors if they find issues that are related to quality of care or any other issue that may require a more in-depth examination.

Comment: Some commenters expressed concern that CHAP's survey process does not allow sufficient time for a progression to a more extensive survey when substandard care is found on the initial survey. Other commenters expressed a more general concern that CHAP's system of verifications is ineffective.

Response: In the time since the publication of the September 5, 1991, proposed notice, CHAP has clarified to us its survey procedures upon the discovery of substandard care. As a result of this clarification, we have determined that CHAP's survey process does provide for a natural and timely progression to an additional level of scrutiny when quality of care problems are found during a site visit. We base this determination on four factors.

- CHAP's agreement to use a timeframe and process comparable to HCFA's for notifying the surveyed home health agency of, and following up on, deficiencies found during an HHA survey.

- CHAP's policy that "Accreditation can be withdrawn during or immediately following a site visit if the site visitors determine at the time that there is a significant quality of care, management, or financial problem within the organization which may seriously jeopardize the care received by that organization's clients." If a site visitor finds a serious deficiency that does not pose an immediate and serious threat to patient safety in the area of clinical competence of professional and paraprofessional staff, clinical staff supervision, patient rights, plan of care, clinical records documentation, coordination of services, financial or organizational management, or compliance with Federal, State, and local laws and regulations, CHAP survey guidelines require the HHA to complete a plan of correction to be verified by a site visit within 30 days. A 60-day plan of care is generally required for quality of care deficiencies in areas not detailed above, such as disclosure of ownership interest. A 90-day plan of

correction is generally provided for required actions related to paperwork requirements.

- CHAP's agreement to use the Functional Assessment Instrument (FAI—Form HCFA-1515) currently used by State and Federal surveyors, on its own site visits. This form standardizes surveyor review of patient records and the conduct of visits to some HHA patients.

Our recognition of CHAP accreditation is contingent upon CHAP's release of CHAP survey reports to us. This ensures that we will oversee the enforcement of Medicare requirements, and that, when events warrant, we will survey deficient HHAs and apply necessary corrective measures or sanctions.

We believe this combination of CHAP survey procedures and our oversight provides reasonable assurance that the Medicare survey requirements in this area are met.

Comment: Several commenters requested clarification on the conditions under which sanctions or other corrective actions will be applied to HHAs that are found to have serious deficiencies during a CHAP survey.

Response: CHAP will not have the authority to apply Medicare corrective actions or alternative sanctions (for example, fines, appointment of temporary management, or suspension of Medicare payments). CHAP will continue to apply its own corrective measures, such as required actions, warnings or the withdrawal of accreditation, and is required to disclose survey results to us. If CHAP survey reports reveal deficiencies that we believe warrant us to take action, we may conduct our own survey and apply any appropriate sanctions or corrective actions.

Also, we published a proposed rule, "Granting and Withdrawal of Deeming Authority to National Accreditation Organizations", in the December 14, 1990 *Federal Register* (55 FR 51434). We proposed to establish our authority to accept a recognized accrediting organization's findings as our own and impose intermediate sanctions or other corrective actions immediately based on those findings. We will exercise this authority upon the final publication of that rule.

Comment: One commenter requested clarification of the actions taken by CHAP in response to complaints about CHAP-accredited HHAs.

Response: CHAP standards specify that "All complaints regarding an accredited organization, potential serious deviations from CHAP standards, or significant organizational

changes reported to CHAP will be investigated by CHAP staff." This investigation may include a site visit by a CHAP surveyor. The CHAP standards also state that "If any findings prove to seriously jeopardize patient safety, appropriate governing authorities (that is, state DOH [Department of Health], HCFA, state license authority) shall be notified." [Clarification added.] As stated above, in the provisions in this notice, CHAP must release its survey reports to us, and we will act upon those reports as appropriate.

In addition, we will conduct unannounced surveys in response to complaints so that we can assure that CHAP-accredited HHAs participating in Medicare continue to meet the Medicare conditions of participation. If appropriate, we will impose sanctions or corrective actions on individual HHAs as a result of these surveys. We also plan to periodically review both CHAP's survey files and the survey and enforcement procedures at CHAP's home office and accompany CHAP site visit personnel on site visits to ensure that CHAP is following the policies and procedures described to us and to ensure that our requirements are met. Furthermore, we will withdraw Medicare recognition of CHAP accreditation if we determine that Medicare requirements are not met.

As detailed below, recognition of CHAP accreditation is also contingent on CHAP's continued agreement to report to the appropriate authorities complaints received from persons working in the accredited HHA or any substantial complaints from others, anonymous or identified, concerning potential fraud and abuse violations, any other indication of a Medicare program abuse encountered by CHAP during a CHAP inspection.

Comment: One commenter stated that it would not be reasonable to expect State survey and certification authorities to be able to respond to questions concerning CHAP accreditation. Another commenter asked if information concerning CHAP accreditation would be available for the State HHA hotline.

Response: We agree that it is not reasonable to require State survey and certification personnel to answer specific questions concerning CHAP accreditation. States that receive questions specifically concerning CHAP accreditation should refer the inquiries directly to CHAP at (800) 669-1656. We believe that since CHAP accreditation is a voluntary action on the part of the HHA and not required as a Medicare condition of participation, the

explanation and interpretation of CHAP requirements should remain the responsibility of CHAP personnel and not be required of State or Federal staff.

Although we do expect State hotlines to be able to state that HCFA recognizes CHAP accreditation and that a particular HHA is accredited by CHAP and to refer inquiries to CHAP at the above telephone number, we are not requiring that the State HHA hotlines respond to inquiries concerning CHAP accreditation. We also expect that the States will respond as necessary to complaints about CHAP-accredited HHAs and will use the information contained in CHAP survey reports that have been released to the State in responding to any inquiries that involve a specific HHA accredited by CHAP.

Comment: One commenter stated that recognition of CHAP accreditation will deprive State Medicare survey agencies of historical survey information needed for enforcement decisions.

Response: We do not agree with this assertion. Because our recognition requires that CHAP provide to us its survey reports and certain complaint information (as detailed below), we believe that we will have sufficient historical information for making enforcement decisions. We will share this information with the States.

Comment: One commenter believes that it is not sufficient to require CHAP to release survey information to us. The commenter proposed that, in addition to the required CHAP disclosure, States should be required to respond in writing and take action to correct any deficiencies found by CHAP. The commenter believes that this requirement would ensure stringent State oversight of CHAP-accredited HHAs.

Response: We do not agree with this comment. The purpose of this notice is to deem HHAs accredited by CHAP as meeting the Medicare HHA conditions, not to impose survey and sanction requirements on the States. Also, we do not believe that it would be sound policy for us to require that the States (or us) respond in writing and take action to correct all CHAP deficiencies. This requirement would deprive the States of needed flexibility in responding to CHAP survey reports and be inconsistent with the purpose of deeming authority under section 1865(a) of the Act. For example, while some CHAP deficiencies might clearly require State response, others may relate only to CHAP standards that have no equivalent in the Medicare conditions of participation. In other cases, the State, on our behalf, may determine that

CHAP's corrective action was sufficient to address the deficiency.

Comment: One commenter stated that CHAP should only be required to release survey reports in response to specific requests.

Response: Our recognition of CHAP accreditation requires that CHAP continue to release survey reports to us and to the public. This is required currently for HHAs that participate in Medicare. Although we will require that CHAP make all survey reports readily available to us, we agree that it is reasonable to require CHAP to release survey reports to the public only in response to requests.

Comment: One commenter stated that we have exceeded our statutory authority in requiring CHAP to release survey reports to the public. The commenter believes that this would infringe on the accredited HHA's privacy.

Response: We do not agree with this comment. Section 1865(a) of the Act requires that accreditation organizations release accreditation surveys and related information to the Secretary. This same section specifically allows the Secretary to publicly disclose this information if it relates to the accreditation of an HHA by a recognized accreditation organization. We are not exceeding our statutory authority in our attempt to streamline this process by requiring CHAP to continue its existing policy of releasing accreditation survey reports or other information directly to the public upon request.

It is CHAP's belief, and we agree, that this policy ensures that consumers have access to information necessary to make informed decisions about home health care. We therefore decline to revise this requirement.

Comment: Several commenters asked if CHAP surveyors must have the same qualifications as HCFA and State surveyors. Other commenters asked if CHAP survey procedures must meet all Medicare requirements; for example, the inclusion of a home visit as part of the standard survey and a survey frequency of not less than once every 15 months.

Response: Section 1865(a) of the Act requires the Secretary to determine if accreditation by a national accreditation organization provides reasonable assurance that Medicare conditions are met. The statute does not require that the accreditation organization's standards and requirements precisely duplicate Medicare conditions. As required by section 1865(a) of the Act, we have determined that CHAP's required surveyor qualifications and survey guidelines provide reasonable

assurance that the Medicare requirements for surveyor qualifications are met.

CHAP policies require site visits to be conducted by at least two site visitors, one of whom must be a registered nurse (RN) with at least a master's degree in nursing. Only the RN can conduct the clinical portion of the survey. CHAP has provided the requisite assurances that all of its survey personnel will be properly trained in the conducting of HHA surveys. CHAP surveys are unannounced and occur every 9 to 15 months.

CHAP surveys include home visits to randomly selected patients.

Comment: One commenter stated that we should revise our validation survey standards before recognition of any private accreditation program is completed to assure that CHAP accreditation is consistent with Federal requirements and that validation surveys are conducted consistently.

Response: Guidelines for hospital accreditation validation surveys are currently contained in our manual instructions to the State survey agencies. We recognize that, since CHAP will be the first HHA accreditation program to be recognized for purposes of participation in the Medicare program, the hospital accreditation validation survey guidelines may require some revision to accommodate the survey of HHAs. We are now reviewing the guidelines to identify the need for any revisions. Because guidelines for validation surveys have been previously developed, we do not anticipate that these potential revisions will be so extensive that they necessitate the delay of our granting deemed status to HHAs accredited by CHAP. In addition, the Medicare statute does not require the development of any specific validation survey guidelines as a condition of our recognition of a private accreditation program.

Comment: Several commenters requested that we delay final recognition of any accreditation organization until the final publication of rules implementing the HHA survey and enforcement provisions of the Omnibus Budget Reconciliation Act of 1987 (Pub. L. 100-203).

Response: We believe a delay in recognizing accreditation organizations is unnecessary because the process involved in approving an accrediting body for deeming purposes does not require that the survey and enforcement provisions of Public Law 100-203 be implemented. We can recognize any national accrediting body whose

requirements provide reasonable assurance that those Medicare conditions in effect at that time are met. Recognition of CHAP is contingent on their standards continuing to provide reasonable assurance that Medicare requirements are met and enforced. Should CHAP fail to sufficiently revise and implement its standards to the extent necessary to provide reasonable assurance that revised Medicare requirements are met and enforced, we would move to withdraw our recognition of the CHAP accreditation program and the deemed status of CHAP-accredited HHAs.

Comment: Several commenters requested that we delay the recognition of any private accreditation program until after the publication of the final rule that will establish the general process for the granting and withdrawal of deemed status. The commenters believe that recognition of any accreditation program before the final publication of the general deeming rule will deprive the public of a full understanding of the process by which we examine accreditation organizations that apply for recognition and will undermine the validity of our determinations regarding the granting of deemed status to providers.

Response: We have not accepted this comment. The general process for granting and withdrawing deemed status was described in a proposed rule published in the *Federal Register* on December 14, 1990 (55 FR 51434). This proposed rule set forth the procedure that we would use to review and approve national accrediting organizations that wish to be recognized as providing reasonable assurance that Medicare conditions are met. The proposed rule also set forth the standards and procedures that we would use to remove our approval of a national accrediting body. This rule is not required by statute but is being developed to provide for additional public input and guidance on the deeming issue. We are now developing the final rule.

Although we believe that the final rule on deemed status will help our future efforts to grant or withdraw deemed status and to continue Federal oversight of accreditation programs, we are not precluded in any way from proceeding with the granting of deemed status before those procedures are issued in a final rule. We described the process by which we analyzed the CHAP program in our September 5, 1991 proposal to grant deemed status to CHAP-accredited HHAs. We also detailed the conditions under which we will

withdraw our recognition of CHAP accreditation in both the proposed notice and this notice. As a result of these efforts, we believe that the public has remained fully informed about our analysis of the CHAP program and the conditions under which we will grant deemed status to CHAP-accredited HHAs. We also believe that we have promulgated our recognition of CHAP's HHA accreditation program in full compliance with all applicable statutory requirements and regulations.

Comment: Several commenters asked for clarification of the status of CHAP-accredited HHAs if we withdraw recognition of CHAP accreditation of HHAs for purposes of participation in the Medicare program.

Response: Should we withdraw recognition of CHAP's accreditation of HHAs, an affected HHA's deemed status will continue in effect for 60 days after the date of withdrawal. We may extend the deemed status for an additional 60 days for an HHA if we determine that the HHA has submitted an application within the initial 60-day timeframe to another approved accreditation organization or to us so that certification of compliance with Medicare conditions can be determined. HHAs that receive accreditation by another approved accreditation organization or Medicare certification within the specified time period may continue to participate in the Medicare program without interruption.

Comment: Several commenters expressed concern that CHAP would eventually develop standards and practices that do not reflect Medicare requirements and that CHAP accreditation will eventually fail to provide reasonable assurance that Medicare conditions are met.

Response: We considered the possibility of this occurrence in our development of the proposed notice and of this final notice. We have, therefore, made our recognition of CHAP's HHA accreditation program contingent on the continued ability of CHAP accreditation to provide reasonable assurance that Medicare requirements are met. If for any reason, such as changes in CHAP requirements or HCFA conditions or the discovery of a pattern of problems or complaints, we determine that CHAP accreditation no longer provides reasonable assurance that a CHAP-accredited HHA meets Medicare requirements under the authority provided in sections 1865(a) and 1891(b) of the Act, we will move to withdraw our recognition of CHAP's HHA accreditation program.

Comment: Several commenters requested that we publish a full side-by-side comparison of the Medicare conditions of participation and the CHAP accreditation standards.

Response: We do not believe that this is necessary for the following reasons:

- Our September 5, 1991 *Federal Register* notice that proposed to grant deemed status to CHAP-accredited HHAs fully described our analysis of the CHAP accreditation standards and procedures. This notice also discussed changes made by CHAP in its standards so that they more closely conform with Medicare conditions of participation as well as differences that remain between specific CHAP standards and Medicare conditions of participation. We believe that this notice fully explained the rationale on which we based our determination that CHAP accreditation provides reasonable assurance that the Medicare conditions are met.

- Our analysis of the CHAP program was not limited to a point-by-point comparison between CHAP standards and Medicare conditions of participation. In analyzing the CHAP program, we reviewed all aspects of CHAP's program, including its survey and enforcement policies and its capacity to manage an increase in the number of HHAs seeking accreditation. Most importantly, the goal of our analysis was to determine whether, when viewed as a whole, CHAP accreditation provides reasonable assurance that Medicare conditions are met. That is, the goal of our analysis was to determine whether CHAP's entire program could be determined to provide reasonable assurance that Medicare conditions are met, rather than to judge the CHAP standards as "equal to or better" than every specific criterion of the Medicare conditions.

After conducting this overall analysis, we determined that CHAP accreditation does provide this reasonable assurance. We believe that a simple crosswalk between the CHAP standards and Medicare conditions, although a useful tool for part of our analysis of the CHAP program, reflects only a small portion of our examination of the CHAP program, and, in addition to being unnecessary for the reasons stated in the preceding paragraph, it would fail to reflect the total evaluation that was the basis for our recognition of the CHAP program.

- None of the public comments (pro or con) in response to the proposed notice addressed specific CHAP accreditation standards as they relate to our determination that CHAP accreditation provides reasonable assurance that the Medicare conditions

of participation are met. We believe that this lack of comments challenging our determination that the CHAP standards are substantially equivalent to the Medicare conditions of participation (even though many comments were submitted by individuals and organizations with access to the CHAP standards) indicates that there is little or no public disagreement with this determination and that the publication of a comparison would add little to the public analysis of our proposal.

Comment: One commenter suggested that we allow an annual public comment period for the initial 3 years of CHAP recognition during which CHAP-accredited HHAs could comment on CHAP adherence to the Medicare conditions.

Response: Although we encourage accredited HHAs to inform us if they believe that CHAP accreditation fails to provide reasonable assurance that Medicare conditions are met, we do not believe that an official annual public notice and comment period is necessary. We emphasize that our recognition of CHAP accreditation for purposes of participation in the Medicare program is contingent on our continued determination that CHAP accreditation provides reasonable assurance that Medicare conditions are met. HHAs are free to contact us or the State at any time should they have any complaints or comments on CHAP's standards or procedures. We (or the State) will respond to these comments or complaints in whatever way is appropriate, including the review of CHAP standards and guidelines and conducting validation surveys. Validation surveys in particular will provide a direct comparison between the effects of CHAP and Medicare surveys. We believe that the establishment of an annual official comment period would slow the process of investigating HHA comments or complaints with burdensome requirements and possibly discourage HHA comments during times other than the official comment period.

Comment: Several commenters expressed support for our recognition of CHAP accreditation on the condition that we also grant deemed status to HHAs accredited by the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO). Similarly, several commenters requested that we recognize accreditation by CHAP and the JCAHO simultaneously.

Response: We published a proposal to grant deemed status to HHAs accredited by the JCAHO in the February 3, 1992, Federal Register (57 FR 4044). Although we have proposed that accreditation by

the JCAHO does provide reasonable assurance that an HHA meets the Medicare conditions of participation, we believe that it is best to consider each accreditation program separately and to not link approval of one accreditation program with the other.

We have decided that this approach is the most fair to all involved parties because it allows each deeming proposal to advance solely on its own merits. If we proposed recognition of two or more accreditation organizations in the same notice, the proposal could not advance until the analysis of both programs is completed and both programs have completed any required revisions. Because different accreditation programs may require different amounts of time to analyze, we do not believe that it would be fair to delay recognition of one program while the analysis of a different program is conducted. For this reason, we believe that the independent approach that we have taken is fair to both programs. We do not intend for this approach to give one program an advantage over the other, nor do we intend that the accreditation program which first receives recognition for Medicare purposes be perceived as being favored over another accreditation organization that may be granted recognition at a later date. We intend to express no preference between recognized private accreditation organizations. It is our goal to complete the evaluation process for the CHAP and JCAHO accreditation programs for purposes of granting deemed status to HHAs as soon as possible, but we do not believe that the actions should be linked or should be pursued contingent on joint action.

IV. Regulatory Impact Statement

A. Executive Order 12291

Executive Order 12291 (EO 12291) requires us to prepare and publish a regulatory impact analysis for any final notice that meets one of the E.O. 12291 criteria for a "major rule"; that is, that will likely result in—

- An annual effect on the economy of \$100 million or more;
- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with Foreign-based enterprises in domestic or export markets.

In this final notice, we recognize the CHAP accreditation process. HHAs

accredited under CHAP ordinarily will not be subject to routine inspection by the State survey agencies to determine their compliance with Federal requirements. We believe that there will be no significant additional costs or savings realized as a result of this notice; therefore, a regulatory impact analysis under Executive Order 12291 is not required.

B. Regulatory Flexibility Act

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. sections 601 through 612) unless the Secretary certifies that a final notice will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all HHAs, both free-standing and hospital-based, to be small entities. HHAs currently participating in the Medicare program and which are accredited by CHAP will be affected only to the extent that Medicare surveys will no longer routinely be performed. All other HHAs will have the choice to seek accreditation by CHAP or to rely upon Medicare survey and certification processes. Implementing these policies will not have a significant impact with respect to the cost of operation and will, to the extent that Medicare surveys are discontinued, reduce the administrative burden currently borne by these HHAs. For these reasons, we have determined, and the Secretary certifies, that this final notice will not have a significant economic effect on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not included in this final notice.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a final notice may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

We are not preparing a rural impact statement since the impact of this final rule is not dependent upon a hospital's location or size. Therefore, we have determined, and the Secretary certifies, that this final notice will not have a significant impact on the operations of a substantial number of small rural hospitals.

V. Information Collection Requirements

This final notice will not impose information collection requirements; consequently, it need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. sections 3501 *et seq.*).

(Secs. 1865(a) and 1871(b)(2)(B) of the Social Security Act (42 U.S.C. 1395bb(a) and 1395hh))

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare-Hospital Insurance, and No. 93.774, Medicare-Supplementary Medical Insurance)

Dated: April 28, 1992.

William Toby, Jr.,

Acting Administrator, Health Care Financing Administration.

Approved: April 30, 1992.

Louis W. Sullivan,

Secretary.

[FR Doc. 92-12120 Filed 5-28-92; 8:45 am]

BILLING CODE 4120-01-M

National Institutes of Health**National Institute of Allergy and Infectious Disease; Meeting: Allergy, Immunology, and Transplantation Research Committee**

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Allergy, Immunology, and Transplantation Research Committee on June 11-12, 1992, at the Bethesda Ramada Inn, 8400 Wisconsin Avenue, Bethesda, Maryland 20815.

The meeting will be open to the public from 8:30 a.m. to 9:45 a.m. on June 11, to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 9:45 a.m. until recess on June 11 and from 8:30 a.m. until adjournment on June 12. These applications, proposals, and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy

and Infectious Diseases, Building 31, room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone 301-496-5717, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Mark Rohrbaugh, Scientific Review Administrator, Allergy, Immunology and Transplantation Research Committee, NIAID, NIH, Solar Building, Room 4C39, Bethesda, Maryland 20892, telephone 301-496-8424, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research, National Institutes of Health.)

Dated: May 13, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-12520 Filed 5-28-92; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Microbiology and Infectious Diseases Research Committee Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Microbiology and Infectious Disease Research Committee, National Institute of Allergy and Infectious Diseases, on June 11-12, 1992, at the Ramada Inn, 8400 Wisconsin Avenue, Bethesda, Maryland 20814.

The meeting will be open to the public from 8:30 a.m. to 9:45 a.m. on June 11, to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 9:45 a.m. until recess on June 11, and from 8:30 a.m. until adjournment on June 12. These applications, proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, room 7A32, National Institutes of Health, Bethesda, Maryland 20892,

Telephone 301-496-5717, will provide a summary of the meeting and a roster of the committee members upon request.

Dr. Peter R. Jackson, Scientific Review Administrator, Microbiology and Infectious Diseases Research Committee, NIAID, NIH, Solar Building, room 4C13, Rockville, Maryland 20892, telephone 301-496-8428, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program No. 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: May 13, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-12503 Filed 5-28-92; 8:45 am]

BILLING CODE 4140-01-M

Meeting of National Institute of Dental Research (NIDR) Special Grants Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the NIDR Special Grants Review Committee, National Institute of Dental Research, June 18-19, 1992, in the Salon Conference Room of the Marriott Suites Hotel, 6711 Democracy Boulevard, Bethesda, Maryland 20817. The meeting will be open to the public from 8:30 to 9 a.m. on June 18 for general discussions. Attendance by the public is limited to space available.

In accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and sec. 10(d) of Public Law 92-463, the meeting will be closed to the public on June 18 from 9 a.m. to recess, and on June 19 from 8:30 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. William Gartland, Scientific Review Administrator, NIDR Special Grants Review Committee, NIH, Westwood Building, room 519, Bethesda, MD 20892, (Telephone 301/496-7658) will provide a summary of the meeting, roster of committee members and substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 93.121, Dental Research Institute; National Institutes of Health.)

Dated: May 13, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-12499 Filed 5-28-92; 8:45 am]

BILLING CODE 4140-01-M

**National Institute of Dental Research;
Meeting of National Advisory Dental
Research Council and Its
Subcommittee on Minority Activities**

Pursuant to Public Law 92-463, notice is hereby given of meetings of the National Advisory Dental Research Council, National Institute of Dental Research, and its Subcommittee on Minority Activities.

The Subcommittee meeting will be held on June 15, from 4 p.m. until adjournment in Conference Room 7, Building 31C, National Institutes of Health, Bethesda, Maryland, to discuss research and activities designed to improve the oral health of minorities and increase the participation of minorities and minority institutes in oral health research. The entire meeting will be open to the public.

The meeting of the National Advisory Dental Research Council, National Institute of Dental Research, will be held June 16-17, 1992, Conference Room 8, Building 31C, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9:30 a.m. to recess on June 16 for general discussion and program presentations. Attendance by the public at both meetings will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting of the Council will be closed to the public on June 16 from 8:30 a.m. to 9:30 a.m. and on June 17 from 9 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Dushanka V. Kleinman, Executive Secretary, National Advisory Dental Research Council, National Institute of Dental Research, National Institutes of Health, Building 31, Room 2C39, Bethesda, Maryland 20892, (telephone 301-496-9469) will furnish a roster of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.121, Oral Diseases and Disorders Research)

Dated: May 13, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-12502 Filed 5-28-92; 8:45 am]

BILLING CODE 4140-01-M

**National Eye Institute; Notice of
Meeting of the Board of Scientific
Counselors**

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Eye Institute (NEI), June 15 and 16, 1992, Building 31, NEI Conference Room 6A35, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on June 15 from 9 a.m. until approximately 4 p.m. for general remarks by the Institute's Acting Director, Intramural Research Programs, on matters concerning the intramural programs of the NEI. Attendance by the public will be limited to space available.

In accordance with provisions set forth in section 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, the meeting will be closed to public on June 15 from approximately 4 p.m. until recess and on June 16 from 8:30 a.m. until adjournment for the review, discussion, and evaluation of individual projects conducted by the Laboratory of Molecular and Developmental Biology. These evaluations and discussions could reveal personal information concerning individuals associated with the projects, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Consequently, this meeting is concerned with matters exempt from mandatory disclosure.

Ms. Louis DeNinno, Committee Management Officer, NEI, Building 31, room 6A04, NIH, Bethesda, Maryland 20892, (301) 496-9110, will provide a summary of the meeting, roster of committee members, and substantive program information upon request.

Dated: May 13, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-12522 Filed 5-28-92; 8:45 am]

BILLING CODE 4140-01-M

**National Heart, Lung, and Blood
Institute; Notice of Meeting of Heart,
Lung, and Blood Research Review
Committee B**

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee B, National Heart, Lung, and Blood Institute, National Institutes of Health, on June 25, 1992 in Building 31, Conference Room 9, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on June 25, from 8 a.m. to approximately 9 a.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C., and section 10(d) of Public Law 92-463, the meeting will be closed to the public on June 25 from approximately 9 a.m. to 5 p.m. for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4236 will provide a summary of the meeting and a roster of the committee members.

Dr. Jeffrey H. Hurst, Scientific Review Administrator, Heart, Lung, and Blood Research Review Committee B, Westwood Building, room 555, National Institute of Health, Bethesda, Maryland 20892, (301) 496-4485, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research, National Institutes of Health.)

Dated: May 13, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-12523 Filed 5-28-92; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting of the Clinical Trials Review Committee

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, June 28-30, 1992, Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

The meeting will be open to the public on June 28, from 7 p.m. to approximately 8 p.m. to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public is limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5, U.S.C., and section 10(d) of Public Law 92-463, the meeting will be closed to the public on June 28, from approximately 8 p.m. to 10 p.m., on June 29, from 8 a.m. to 6 p.m., and on June 30, from 8 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A-21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4236, will provide a summary of the meeting and a roster of the Committee members.

Dr. David M. Monsees, Jr., Contracts, Clinical Trials and Training Review Section, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, Westwood Building, room 550B, Bethesda, Maryland 20892, (301) 496-7361, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: May 13, 1992.

Susan K. Feldman,
Committee Management Officer, NIH.

[FR Doc. 92-12524 Filed 5-28-92; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Meeting of Heart, Lung, and Blood Research Review Committee A

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee A, National Heart, Lung, and Blood Institute, National Institutes of Health, on June 25 and 26, 1992, in Building 31, Conference Room 7, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on June 25, from 8 a.m. to approximately 9 a.m., to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., and section 10(d) of Public Law 92-463, the meeting will be closed to the public on June 25, from approximately 9 a.m. until recess, and from 9 a.m. until adjournment on June 26, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A-21, National Institutes of Health, Bethesda, Maryland 20892, 301-496-4236, will provide a summary of the meeting of a roster of the committee members.

Dr. Jon Ranhand, Scientific Review Administrator (Acting), Heart, Lung, and Blood Research Review Committee A, Westwood Building, room 554, National Institutes of Health, Bethesda, Maryland 20892, 301-496-7265, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; National Institutes of Health.)

Dated: May 13, 1992.

Susan K. Feldman,
Committee Management Officer, NIH.

[FR Doc. 92-12525 Filed 5-28-92; 8:45 am]

BILLING CODE 4140-01-M

Division of Research Grants; Notice of Meetings

Pursuant to Public Law 92-463, notice is hereby given of meetings of the Division of Research Grants Behavioral and Neurosciences Special Emphasis Panel.

These meetings will be open to the public to discuss administrative details relating to Special Emphasis Panel business for approximately one half hour at the beginning of each meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in Section 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92-463, for the review, discussion and evaluation of individual grant applications in the areas of the behavioral and neurosciences. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301-496-7534, will furnish summaries of the meetings and rosters of panel members. Substantive program information may be obtained from each Scientific Review Administrator whose telephone number is provided. Since it is necessary to announce meetings well in advance of the actual meeting, it is suggested that anyone planning to attend a meeting contact the Scientific Review Administrator to confirm the exact date, time and location. All meetings listed will be held in June. At this time, it is not possible to provide the exact date and place of all meetings.

Scientific Review Administrator: Dr. Andrew Mariani, (301) 496-7279.

Date of Meeting: June 9, 1992.

Place of Meeting: Hotel Washington, Washington, DC.

Time of Meeting: 8 a.m.

Scientific Review Administrator: Dr. Joseph Kimm, (301) 496-7494.

Date of Meetings: Two meetings in June 1992.

Place of Meetings: Greater Washington DC Metropolitan Area.

Time of Meetings: 8 a.m.

Scientific Review Administrator: Dr. Anita Suran, (301) 496-7000.

Date of Meeting: Telephone Conference—June 1992.

Place of Meeting: NIH, Bethesda, MD.

Time of Meeting: 8 a.m.

Scientific Review Administrator: Dr. Anita Suran, (301) 496-7000.

Date of Meeting: June 1992.

Place of Meeting: Greater Washington DC Metropolitan Area.

Time of Meeting: 8 a.m.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 13, 1992.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 92-12521 Filed 5-28-92; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection requests it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on Friday May 8, 1992.

(Call PHS Reports Clearance Officer on 202-245-2100 for copies of package.)

1. Cardiovascular Health Study (CHS)—(0925-0334)—Modification of the previously approved study of 5,201 men and women by addition of 700 African-American men and women in two of the four original communities is projected to improve the assessment of black-white differences in cardiovascular disease risk and progression in the elderly. Respondents: Individuals or households, businesses or other for-profit, small businesses or organizations.

| Title | No. of respondents | No. of responses per respondent | Average burden per response |
|--|--------------------|---------------------------------|-----------------------------|
| Cardiovascular Health Study Individuals or Households..... | 5,673 | 3 | 0.917 hrs. |
| Physicians..... | 210 | 1 | 0.10 hrs. |
| Next-of-kin of Decedents in Cohort..... | 230 | 1,000 | 58 |
| Estimated total annual burden—17,485 | | | |

2. Application for Training—0920-0017—The Centers for Disease Control (CDC) provides training to employees of hospitals, universities, laboratories and other health professionals. The trainee applies for instruction on an "Application for Training." This application is used to apply for CDC conducted training in laboratory procedures and current prevention and control techniques of infectious diseases and immunization procedures. Respondents: Individuals or households;

Number of Respondents: 11,310; Number of Responses per Respondent: 1; Average Burden per Response: .167 hours; Estimated Annual Burden: 1,886 hours.

3. Cosmetic Product Voluntary Reporting Program—21 CFR part 720 Consolidation—0910-0030—This information collection assists FDA in evaluating alleged injuries and adverse reactions from use of cosmetic products. It is also utilized in defining and planning analytical and toxicological

studies, as well as incorporating the discontinuance notice required by FDA when a product is removed from commercial distribution. Data on ingredients and formulations is also available to other government agencies, the public and industry who may access it through the Freedom of Information Act. Respondents: Businesses or other for-profit and small businesses or organizations.

| Title | No. of respondents | No. of responses per respondent | Average burden per response |
|---|--------------------|---------------------------------|-----------------------------|
| Information requested about cosmetic products—Reporting 21 CFR 720.4..... | 550 | 5.5 | .33 hrs. |
| Amendments to statements—Reporting 21 CFR 720.6..... | 550 | 4.4 | .1 hrs. |
| Confidentiality Petitions 21 CFR 720.8 Reporting..... | 8 | 1 | 1 hr. |
| Estimated total annual burden—1,277 | | | |

4. 1992-1993 National Drug And Alcoholism Treatment Unit Survey (NDATUS)—0930-0106—Information collected by NDATUS on the location, scope, and characteristics of all known

drug abuse and alcoholism treatment and prevention programs in the United States is needed to assess the nature and extent of these resources, identify gaps in service, and provide a data base

for treatment referrals. Respondents: State or local governments, businesses or other for-profit, Federal agencies or employees, non-profit institutions, small businesses or organizations.

| Title | No. of respondents | No. of responses per respondent | Average burden per response |
|-------------------------------------|--------------------|---------------------------------|-----------------------------|
| Providers: States..... | 56 | 1 | 15 hrs. |
| Providers: Treatment..... | 8,000 | 1 | .8333 hrs. |
| Providers: Non-treatment..... | 3,600 | 1 | .05 hrs. |
| Estimated total annual burden—7,686 | | | |

Correction: The following project description is a correction for the description printed on Friday, April 10, Statement in Support of Application for Waiver of Excludability—0920-0006—section 212(a)(1) of the Immigration and Nationality Act states that aliens with specific health conditions are excludable from admission to the U.S. on health-related grounds and are ineligible for visas. The Attorney General of the U.S. may waive application of this exclusion of admissibility on health grounds if an application for a waiver is filed and approved by the consular office considering the application for a visa. The primary purpose of this information collection is to establish and maintain records of waiver applicants in order to notify the Immigration and Naturalization Service when terms, conditions and controls imposed by the waiver are not met. Respondents: Businesses or other for-profit, Small businesses or organizations; Number of Respondents: 200; Number of responses per respondent: 1; Average Burden per Response: .165 hr.

OMB Desk Officer: Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated above at the following address: Human Resources and Housing branch, New Executive Office Building, room 3002, Washington, DC 20503.

Dated: May 21, 1992.

Phyllis M. Zucker,

Acting Director, Office of Health Planning and Evaluation.

[FR Doc. 91-12417 Filed 5-28-92; 8:45 am]

BILLING CODE 4160-17-M#

National Toxicology Program; Announcement of Intent to Conduct Long-Term Toxicological Studies of 21 Chemicals; Request for Comments

As part of an effort to inform the public, the National Toxicology Program (NTP) routinely announces in the Federal Register the lists of chemicals for which it intends to conduct long-term toxicological studies. This announcement will allow interested parties to comment and provide information on chemicals under consideration for long-term toxicology and carcinogenesis studies.

1. Fumonisin B1 (116355-83-0)—2-year studies via dosed feed in B6C3F1 mice and F344 rats.

2. Naphthalene (91-20-3)—13-week and 2-year studies in B6C3F1 mice and F344 rats.

3. Dipropylene glycol (25265-71-8)—2-year studies via dosed water in B6C3F1 mice and F344 rats.

4. Propylene glycol t-butyl ether (57018-52-7)—13-week and 2-year studies in B6C3F1 mice and F344 rats.

5. 3,3',4,4'-Tetrachloroazobenzene (14047-09-7)—13-week and 2-year studies in B6C3F1 mice and F344 rats.

6. 3,3',4,4'-Tetrachloroazoxybenzene (21232-47-3)—13-week and 2-year studies in B6C3F1 mice and F344 rats.

7. Benzophenone (119-61-9)—13-week and 2-year studies in B6C3F1 mice and F344 rats.

8. Benzyltrimethylammonium chloride (BTMAC) (5-93-9)—2-year studies in B6C3F1 mice and F344 rats.

9. 1,2,3,4-Butanetetracarboxylic acid (BTAC) (1703-58-8)—13-week and 2-year studies in B6C3F1 mice and F344 rats.

10. Camphor (76-22-2)—13-week and 2-year studies in B6C3F1 mice and F344 rats.

11. Dicyclopentadiene (77-73-6)—13-week and 2-year studies in B6C3F1 mice and F344 rats.

12. Hexamethyldisilazane (HMDS) (999-97-3)—13-week and 2-year studies in B6C3F1 mice and F344 rats.

13. Ethoxyquin (91-53-2)—13-week and 2-year studies in B6C3F1 mice and F344 rats.

14. Pentaerythritol triacrylate (PETA) (3524-68-3)—13-week and 2-year studies in B6C3F1 mice and F344 rats.

15. Trimethylolpropane triacrylate (TMPT) (15625-89-5)—13-week and 2-year studies in B6C3F1 mice and F344 rats.

16. Vanadium pentoxide (1314-62-1)—2-year studies via inhalation in B6C3F1 mice and F344 rats.

17. Butanal oxime (110-69-0)—13-week and 2-year studies in B6C3F1 mice and F344 rats.

18. Cyclohexanone oxime (100-64-1)—2-year studies via dosed water in B6C3F1 mice.

19. 2,3-Dichloropropylene (78-88-6)—2-year studies via inhalation in B6C3F1 mice and F344 rats.

20. Formamide (75-12-7)—13-week and 2-year studies in B6C3F1 mice and F344 rats.

21. Isoeugenol (97-54-1)—13-week and 2-year studies in B6C3F1 mice and F344 rats.

Anyone having relevant information (including ongoing toxicological studies, current or future trends in production and import, use pattern, human exposure levels, and toxicological data) to share with the NTP on any of these chemicals, should contact Dr. William

Eastin within 60 days of the appearance of this announcement. The information provided will be considered by the NTP in setting priority and in study design.

Contact may be made by mail to: Dr. William Eastin, NIEHS/NTP, P.O. Box 12233, Research Triangle Park, North Carolina 27709 or by telephone at 919-541-7941.

Dated: May 22, 1992.

Kenneth Olden,

Director, National Toxicology Program.

[FR Doc. 92-12526 Filed 5-29-92; 8:45 am]

BILLING CODE 4140-01-M

National Toxicology Program; Technical Report on Toxicology and Carcinogenesis Studies of Gamma- Butyrolactone

The HHS' National Toxicology Program (NTP) announces the availability of the NTP Technical Report on toxicology and carcinogenesis studies of gamma-butyrolactone, an intermediate in the synthesis of polymers used as film formers in hair sprays, as blood plasma extenders, and as clarifying agents in beer and wine.

Toxicology and carcinogenesis studies were conducted by administering gamma-butyrolactone in corn oil by gavage to groups of F344/N rats and B6C3F1 mice of each sex. Daily doses were 0, 112, and 225 mg/kg for male rats; 0, 225, and 450 mg/kg for female rats; and 0, 262, and 525 mg/kg for male and female mice for a period of 2 years.

Under the conditions of these 2-year gavage studies, there was no evidence of carcinogenic activity¹ of gamma-butyrolactone in male F344/N rats given 112 or 225 mg/kg or in female F344/N rats given 225 or 450 mg/kg in corn oil. There was equivocal evidence of carcinogenic activity of gamma-butyrolactone in male B6C3F1 mice based on marginally increased incidences of adrenal medulla pheochromocytomas and hyperplasia in the low-dose group. The sensitivity of the study in male mice to detect a carcinogenic effect was reduced by the low survival of the high-dose group associated with fighting. There was no evidence of carcinogenic activity of gamma-butyrolactone in female B6C3F1 mice given 262 or 525 mg/kg in corn oil.

¹ The NTP uses five categories of evidence of carcinogenic activity to summarize the evidence observed in each animal study: two categories for positive results ("clear evidence" and "some evidence"), one category for uncertain findings ("equivocal evidence"), one category for no observable effect ("no evidence"), and one category for studies that cannot be evaluated because of major flaws ("inadequate study").

A decreased incidence of hepatocellular neoplasms in dosed male mice and decreased incidences of mammary gland fibroadenomas and cysts and pituitary cysts in female rats were associated with the administration of gamma-butyrolactone.

The Study Scientist for this bioassay is Dr. Scot L. Eustis. Questions or comments about the contents of this Technical Report should be directed to Dr. Eustis at P.O. Box 12233, Research Triangle Park, NC 27709 or telephone (919) 541-3231.

Copies of Toxicology and Carcinogenesis Studies of Gamma-Butyrolactone (CAS No. 96-48-0) in F344/N Rats and B6C3F1 Mice (Gavage Studies) (TR 406) are available from NTP Central Data Management, NIEHS, P.O. Box 12233, MD-A0-01, Research Triangle Park, NC 27709; telephone (919) 541-1371 or (919) 541-3419.

Dated: May 22, 1992.

Kenneth Olden,

Director, National Toxicology Program.

[FR Doc. 92-12527 Filed 5-28-92; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-92-1917; FR-2934-N-80]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

ADDRESSES: For further information, contact James N. Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 708-4300; TDD number for the hearing- and speech-impaired (202) 708-2565 (these telephone numbers are not toll-free), or call the toll-free title V information line at 1-800-927-7588.

SUPPLEMENTARY INFORMATION: In accordance with 56 FR 23789 (May 24, 1991) and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that

HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A-10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for

use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1-800-927-7588 for detailed instructions or write a letter to James N. Forsberg at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: U.S. Army: Robert Conte, Dept. of Army, Military Facilities, DAEN-ZCI-P; rm. 1E671, Pentagon, Washington, DC 20310-2600; (703) 693-4583; (This is not a toll-free number).

Dated: May 22, 1992.

Randall H. Erben,

Acting Assistant Secretary for Community Planning and Development.

Title V, Federal Surplus Property Program
Federal Register Report for 05/29/92

SUITABLE/AVAILABLE PROPERTIES

Buildings (by State)

Alabama

Bldg. T00221

Fort McClellan

Fort McClellan Co: Calhoun AL 36205-5000

Location: Take left turn off Baltzell Gate Road.

Landholding Agency: Army

Property Number: 219110042

Status: Underutilized

Comment: 4125 sq. ft.; one story wood frame; needs major rehab; termite infested; presence of asbestos; off-site use only.

Bldg. T00796

Fort McClellan

Fort McClellan Co: Calhoun AL 36205-5000

Location: Intersection of 19th and 20th Streets.

Landholding Agency: Army

Property Number: 219110043

Status: Unutilized

Comment: 1340 sq. ft.; one story wood frame; needs major rehab; presence of asbestos; off-site use only.

Bldg. T00883

Fort McClellan

3rd Avenue

Ft. McClellan Co: Calhoun AL 36205-5000

Landholding Agency: Army

Property Number: 219110044

Status: Unutilized

Comment: 760 sq. ft.; one story wood frame; needs major rehab; presence of asbestos; off-site use only.

Bldgs. T01121, T01123, T01124

Fort McClellan

MacArthur Avenue

Fort McClellan Co: Calhoun AL 36205-5000

Landholding Agency: Army

Property Numbers: 219110048-219110050

Status: Unutilized

Comment: 2400 sq. ft. each; two story wood frame; needs rehab; presence of asbestos; off-site use only.

Bldg. T01125

Fort McClellan

21st Street and MacArthur Avenue

Fort McClellan Co: Calhoun AL 36205-5000

Landholding Agency: Army

Property Number: 219110051

Status: Unutilized

Comment: 2556 sq. ft.; one story wood frame; needs rehab; presence of asbestos; off-site use only.

Bldg. T01394

Fort McClellan

4th Avenue in Area 13 of Post

Fort McClellan Co: Calhoun AL 36205-5000

Landholding Agency: Army

Property Number: 219110052

Status: Unutilized

Comment: 191 sq. ft.; one story tin and lumber building; needs major rehab; off-site use only.

Bldg. T01692

Fort McClellan

25th Street

Fort McClellan Co: Calhoun AL 36205-5000

Landholding Agency: Army

Property Number: 219110053

Status: Unutilized

Comment: 4404 sq. ft.; one story wood frame; needs rehab; presence of asbestos; off-site use only.

Bldgs. T02264, T02266

Fort McClellan

Fort McClellan Co: Calhoun AL 36205-5000

Landholding Agency: Army

Property Numbers: 219110054-219110055

Status: Unutilized

Comment: 864 sq. ft. each; one story wood frame; needs major rehab; electrical hazard; presence of asbestos; off-site use only.

Bldg. T00123

Post Chapel—Fort Rucker

5th Avenue

Fort Rucker Co: Dale AL 36362-

Landholding Agency: Army

Property Number: 219110145

Status: Unutilized

Comment: 4798 sq. ft.; 1 story wood structure; minor repairs.

Bldg. T09307

Post Chapel—Fort Rucker

3rd Avenue

Fort Rucker Co: Dale AL 36362-

Landholding Agency: Army

Property Number: 219110148

Status: Unutilized

Comment: 3739 sq. ft.; 1 story wood structure; minor repairs.

Bldg. T09309

Fort Rucker—Education Facility

3rd Avenue

Fort Rucker Co: Dale AL 36362-

Landholding Agency: Army

Property Number: 219110147

Status: Unutilized

Comment: 1500 sq. ft.; 1 story wood structure; minor repairs.

Bldg. T05020—Fort Rucker

3rd Avenue

Fort Rucker Co: Dale AL 36362-

Landholding Agency: Army

Property Number: 219120108

Status: Unutilized

Comment: 2500 sq. ft., one story, possible asbestos, off-site use only.

Bldg. T08917—Fort Rucker

Corner of Division Road & 7th Avenue

Fort Rucker Co: Dale AL 36362-

Landholding Agency: Army

Property Number: 219120112

Status: Unutilized

Comment: 16004 sq. ft., two story, possible asbestos, needs rehab.

Bldg. T00108

Fort Rucker

6th Avenue

Fort Rucker Co: Dale AL 36362-

Landholding Agency: Army

Property Number: 219120270

Status: Unutilized

Comment: 24992 sq. ft., 1 story wood structure, most recent use youth center gymnasium, possible asbestos, off-site use only.

Bldgs. 5119, 5120, Fort Rucker

3rd Avenue

Fort Rucker Co: Dale AL 36362-

Landholding Agency: Army

Property Numbers: 219140023-219040024

Status: Unutilized

Comment: 2500 sq. ft. each, 1 story, most recent use—supply buildings, off-site use only.

Bldg. 8913, Fort Rucker

7th Avenue

Fort Rucker Co: Dale AL 36362-

Landholding Agency: Army

Property Number: 219140025

Status: Unutilized

Comment: 3100 sq. ft., 1 story wood, most recent use—chaplain's conference room, off-site use only.

Bldg. 8914, Fort Rucker

7th Avenue

Fort Rucker Co: Dale AL 36362-

Landholding Agency: Army

Property Number: 219140026

Status: Unutilized

Comment: 2250 sq. ft., 1 story wood, most recent use—chaplain's headquarters, off-site use only.

Bldgs. T03202-T03203, T03206-T03208, T03211, T03213, T03216-T03217

Cowboy & Crusader Street

Fort Rucker Co: Dale AL 36362-

Landholding Agency: Army

Property Numbers: 219210001-219210009

Status: Unutilized

Comment: 5310 sq. ft. each, two story wood structure, most recent use—barracks, presence of asbestos, offsite use only.

Arizona

Bldg. S-308

Yuma Proving Ground

Main Admin. Area-near inter. 1st & D Sts

Yuma Co: Yuma/La Paz AZ 85365-9102

Landholding Agency: Army

Property Number: 219011725

Status: Underutilized

Comment: 2 story wood and stucco frame; needs structural upgrading; portion of 2nd floor vacant.

Bldg. S-1003

Yuma Proving Ground

Main Admin Area-5th & Barranca Road

Yuma Co: Yuma/La Paz AZ 85365-9102

Landholding Agency: Army

Property Number: 219011727

Status: Underutilized

Comment: 2227 sq. ft.; two-story wood and stucco frame; 2 floor wood and frame; possible asbestos; bldg. committed to Congress for disposal.

Bldg. S-503

Yuma Proving Ground

Main Admin. Area—2nd St. bet. D & F Sts.

Yuma Co: Yuma/La Paz AZ 85365-9102

Landholding Agency: Army

Property Number: 219011746

Status: Underutilized

Comment: 2123 sq. ft.; possible asbestos; 2nd floor vacant; structural upgrading needed; bldg. scheduled for renovation and used as community center.

Bldg. S-501

Yuma Proving Ground

Main Admin Area—D & 2d Sts.

Yuma Co: Yuma/La Paz AZ 85365-9102

Landholding Agency: Army

Property Number: 219011747

Status: Unutilized

Comment: 4000 sq. ft.; possible asbestos; scheduled for renovation; to be used as "Army Continuing Education Facility"; 2 floors.

Bldg. S-611

Yuma Proving Ground

Yuma Co: Yuma/La Paz AZ 85365-9102

Location: Main Administrative Area—Near

intersection of 5th & D Sts.

Landholding Agency: Army

Property Number: 219013928

Status: Unutilized

Comment: 1840 sq. ft.; 1 story wood and stucco frame; most recent use—child care center.

Bldg. S-1005

Yuma Proving Ground

Yuma Co: Yuma/La Paz AZ 85365-9102

Location: Main Administrative Area—Near

intersection of 7th & F Sts.

Landholding Agency: Army

Property Number: 219013930

Status: Unutilized

Comment: 176 sq. ft.; 1 story wood and stucco frame; most recent use—cold storage and refrigeration facility.

Bldg. T67208

U.S. Army Intelligence Center

Fort Huachuca

Sierra Vista Co: Cochise AZ 85635-

Landholding Agency: Army

Property Number: 219120113

Status: Unutilized

Comment: 2546 sq. ft., one story wood, most recent use—storage.

Bldg. T70224

U.S. Army Intelligence Center

Fort Huachuca

Sierra Vista Co: Cochise AZ 85635-
Landholding Agency: Army
Property Number: 219120149
Status: Unutilized
Comment: 1252 sq. ft., one story wood; most recent use—administrative.

Bldgs. 70117-70120

Fort Huachuca

Sierra Vista Co: Cochise AZ 85635-
Landholding Agency: Army
Property Numbers: 219120306-219120309
Status: Excess

Comment: 3434 sq. ft. each, 1 story wood structures, presence of asbestos, most recent use—general instructional

Bldg. 70225—Fort Huachuca

Sierra Vista Co: Cochise AZ 85635-

Landholding Agency: Army

Property Number: 219120310

Status: Excess

Comment: 3813 sq. ft., 1 story wood structure, presence of asbestos, most recent use—admin. gen. purpose.

Bldg. 83006—Fort Huachuca

Sierra Vista Co: Cochise AZ 85635-

Landholding Agency: Army

Property Number: 219120311

Status: Excess

Comment: 2062 sq. ft., 1 story wood structure, presence of asbestos, most recent use—admin. gen. purpose.

Bldg. 83007—Fort Huachuca

Sierra Vista Co: Cochise AZ 85635-

Landholding Agency: Army

Property Number: 219120312

Status: Excess

Comment: 2000 sq. ft., 2 story wood structure, presence of asbestos, most recent use—admin. gen. purpose.

Bldg. 83008—Fort Huachuca

Sierra Vista Co: Cochise AZ 85635-

Landholding Agency: Army

Property Number: 219120313

Status: Excess

Comment: 2192 sq. ft., 2 story wood structure, presence of asbestos, most recent use—admin. gen. purpose.

Bldg. 83015—Fort Huachuca Sierra Vista Co: Cochise AZ 85635-

Landholding Agency: Army

Property Number: 219120314

Status: Excess

Comment: 2325 sq. ft., 1 story wood structure, presence of asbestos, most recent use—admin. gen. purpose.

Arkansas

Fort Chaffee

U.S. Army Garrison

1095 4th Avenue

Barling Co: Sebastian AR 72905-5000

Landholding Agency: Army

Property Number: 219012811

Status: Underutilized

Comment: 3634 sq. ft.; 1 story wood frame; possible asbestos; selected periods used for military/training exercises.

Fort Chaffee

U.S. Army Garrison

1094 4th Avenue

Barling Co: Sebastian AR 72905-5000

Landholding Agency: Army

Property Number: 219012812

Status: Underutilized

Comment: 2181 sq. ft.; 1 story wood frame; possible asbestos; selected periods used for military/training exercises.

Fort Chaffee

U.S. Army Garrison

1092 4th Avenue

Barling Co: Sebastian AR 72905-5000

Landholding Agency: Army

Property Number: 219012813

Status: Underutilized

Comment: 3321 sq. ft.; 1 story wood frame; possible asbestos; selected periods used for military/training exercises.

U.S. Army Garrison

Fort Chaffee

1070 2nd Avenue

Barling Co: Sebastian AR 72905-5000

Landholding Agency: Army

Property Number: 219013267

Status: Underutilized

Comment: 3191 sq. ft.; 2 story wood frame; possible asbestos; selected periods used for military training; most recent use—barracks.

U.S. Army Garrison

Fort Chaffee

260 Taylor Avenue

Fort Chaffee Co: Sebastian AR 72905-5000

Landholding Agency: Army

Property Number: 219110112

Status: Underutilized

Comment: 173 sq. ft.; one story; no water or heat in bldg.; most recent use—administration.

U.S. Army Garrison

Fort Chaffee

263 Taylor Avenue

Fort Chaffee Co: Sebastian AR 72905-5000

Landholding Agency: Army

Property Number: 219110113

Status: Underutilized

Comment: 707 sq. ft.; one story; no water or heat in bldg.; needs rehab; most recent use—storage.

California

Bldgs. 608-610, 612-619, 621-629

Parks Reserve Forces Training Area

Dublin Co: Alameda CA 94129-

Landholding Agency: Army

Property Numbers: 219012855-219012874

Status: Unutilized

Comment: 49,500 sq. ft. each; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldgs. 856-869, 875, 881-887, 889-890

Parks Reserve Forces Training Area

Dublin Co: Alameda CA 94129-

Landholding Agency: Army

Property Numbers: 219012884-219012897, 219012902-219012911

Status: Unutilized

Comment: 63,290 sq. ft. each; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldgs. 988, 906-909, 912-919, 924-938, 942-959,

966-969, 971-972, 976-979, 987

Parks Reserve Forces Training Area

Dublin Co: Alameda CA 94129-

Landholding Agency: Army

Property Numbers: 219012918, 219012923-

219012926, 219012929-219012936,

219012938-219012970, 219012975-219012978,

219012980-219012981, 219012984-219012987,

219012995

Status: Unutilized

Comment: 11,300 sq. ft. each; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldgs. 218-219, 227-229, 237-249, 252-269, 279, 282, 283, 286-289

Parks Reserve Forces Training Area

Dublin Co: Alameda CA 94129-

Landholding Agency: Army

Property Numbers: 219013002-219013003,

219013011-219013013, 219013021-219013033,

219013036-219013053, 219013062,

219013065-219013066, 219013068-219013071

Status: Unutilized

Comment: 11,500 sq. ft. each; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldgs. 920-922, 940-941

Parks Reserve Forces

Training Area

Dublin Co: Alameda CA 94129-

Landholding Agency: Army

Property Numbers: 219030289-219030291,

219030293-219030294

Status: Unutilized

Comment: 11,300 sq. ft. each; 1 story wood frame; needs major rehab; extensive asbestos present.

EM Barracks, T-1201 thru T-1204, T-1208, T-1214

Sierra Army Depot

DS Hall Avenue

Herlong Co: Lassen CA 96113-

Landholding Agency: Army

Property Numbers: 219110117-219110122

Status: Underutilized

Comment: 5310 sq. ft. each; two story wood frame; security restrictions.

Open Mess & NCO Club, T-1218

Sierra Army Depot

DS Hall Avenue

Herlong Co: Lassen CA 96113-

Landholding Agency: Army

Property Number: 219110123

Status: Underutilized

Comment: 8694 sq. ft.; one story wood frame; needs rehab; presence of asbestos; security restrictions.

Bldg. 60

Los Alamitos Armed Forces Reserve Center

Main entrance on Lexington Dr.

Los Alamitos Co: Orange CA 90720-5001

Landholding Agency: Army

Property Number: 219120315

Status: Unutilized

Comment: 1024 sq. ft., 2 story concrete-wood plaster, possible asbestos, off-site use only, most recent use—nose hanger.

Bldg. 95

Los Alamitos Armed Forces Reserve Center

Main entrance on Lexington Dr.

Los Alamitos Co: Orange CA 90720-5001

Landholding Agency: Army

Property Number: 219120316

Status: Unutilized

Comment: 392 sq. ft., 1 story raised portable, off-site use only, most recent use—radar maint. shop.

Bldg. 186

Los Alamitos Armed Forces Reserve Center

Main entrance on Lexington Dr.

Los Alamitos Co: Orange CA 90720-5001

Landholding Agency: Army

Property Number: 219120317

Status: Unutilized

Comment: 996 sq. ft., 1 story steel, off-site use only, most recent use—storage.

Bldg. 196

Los Alamitos Armed Forces Reserve Center
Main entrance on Lexington Dr.

Los Alamitos Co: Orange CA 90720-5001

Landholding Agency: Army

Property Number: 219120318

Status: Unutilized

Comment: 1029 sq. ft., stucco structure, off-site use only, most recent use—storage.

Bldg. 197

Los Alamitos Armed Forces Reserve Center
Main entrance on Lexington Dr.

Los Alamitos Co: Orange CA 90720-5001

Landholding Agency: Army

Property Number: 219120319

Status: Unutilized

Comment: 720 sq. ft. 1 story stucco structure, off-site use only, most recent use—storage, possible asbestos.

Bldgs. 262-263, 265, 268

Los Alamitos Armed Forces Reserve Center
Main entrance on Lexington Dr.

Los Alamitos Co: Orange CA 90720-5001

Landholding Agency: Army

Property Numbers: 219120320-219120323

Status: Unutilized

Comment: 448 sq. ft. trailers, off-site use only, most recent use—storage.

Colorado**Bldg. 1642, Fort Carson**

Specker Avenue

Colorado Springs Co: El Paso CO 80913-

Landholding Agency: Army

Property Number: 219140077

Status: Unutilized

Comment: 1575 sq. ft., 1 story wood, needs rehab, most recent use—admin. bldg., presence of asbestos.

Bldgs. 2218, 2327, 2335, 2336, 2435

Fort Carson

Specker Avenue

Colorado Springs Co: El Paso CO 80913-

Landholding Agency: Army

Property Numbers: 219140078, 219140091,

219140170, 219140171, 219140178

Status: Unutilized

Comment: 2488 sq. ft. each, 1 story wood, needs rehab, presence of asbestos.

Bldgs. 2222, 2225-2226, 2317, 2320-2321, 2323-2325, 2330, 2333-2334, 2418, 2422, 2424

Fort Carson

Colorado Springs Co: El Paso CO 80913-

Landholding Agency: Army

Property Numbers: 219140079, 219140082-

219140089, 219140166, 219140168-219140169,

219140172, 219140174-219140175

Status: Unutilized

Comment: 5310 sq. ft. each, 2 story wood, needs rehab, presence of asbestos.

Bldgs. 2223-2224, Fort Carson

Colorado Springs Co: El Paso CO 80913-

Landholding Agency: Army

Property Numbers: 219140080-219140081

Status: Unutilized

Comment: 4720 sq. ft. each, 2 story wood, needs rehab, presence of asbestos.

Bldg. 2326, Fort Carson

Wetzel Ave.

Colorado Springs Co: El Paso CO 80913-

Landholding Agency: Army

Property Number: 219140090

Status: Unutilized

Comment: 2988 sq. ft., 1 story wood, needs rehab, most recent use—classroom, presence of asbestos.

Bldg. 2419, Fort Carson

Polio Street

Colorado Springs Co: El Paso CO 80913-

Landholding Agency: Army

Property Number: 219140173

Status: Unutilized

Comment: 1852 sq. ft., 1 story wood, needs rehab, most recent use—education center, presence of asbestos.

Bldg. 2425, Fort Carson

Polio Street

Colorado Springs Co: El Paso CO 80913-

Landholding Agency: Army

Property Number: 219140176

Status: Unutilized

Comment: 2700 sq. ft., 1 story wood, needs rehab, most recent use—admin. bldg., presence of asbestos.

Bldg. 2433, Fort Carson

Specker Avenue

Colorado Springs Co: El Paso CO 80913-

Landholding Agency: Army

Property Number: 219140177

Status: Unutilized

Comment: 3108 sq. ft., 1 story wood, needs rehab, most recent use—education center, presence of asbestos.

Bldg. 2331, Fort Carson

Mister Street

Colorado Springs Co: El Paso CO 80913-

Landholding Agency: Army

Property Number: 219140167

Status: Unutilized

Comment: 1850 sq. ft., 1 story wood, needs rehab, most recent use—storage, presence of asbestos.

District of Columbia**Bldg. 81, Fort McNair**

Washington DC 20319-5050

Landholding Agency: Army

Property Number: 219210282

Status: Unutilized

Comment: 2460 sq. ft., storage shed, open on one side, off-site use only.

Georgia**Bldgs. 4920, 4921, 4910-4911, 4928**

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219010002-219010003,

219010105-219010106, 219010108

Status: Unutilized

Comment: 1888 sq. ft. each; most recent use—barracks; needs rehab.

Bldg. 4915

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219010004

Status: Unutilized

Comment: 1297 sq. ft.; most recent use—headquarters building; needs rehab.

Bldg. 4914

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219010005

Status: Unutilized

Comment: 810 sq. ft.; most recent use—arms building; needs rehab.

Bldg. 4927

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219010107

Status: Unutilized

Comment: 1888 sq. ft.; most recent use—classrooms; 2-stories; needs rehab.

Bldgs. 5288-5290

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219010109-219010111

Status: Unutilized

Comment: 1216 sq. ft. each; most recent use—arms buildings; needs rehab.

Bldgs. 5291, 5293-5295

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219010112, 219010114-

219010116

Status: Unutilized

Comment: 2529 sq. ft. each; most recent use—dining room; needs rehab.

Bldg. 5292

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219010113

Status: Unutilized

Comment: 2525 sq. ft.; most recent use—snack bar; needs rehab.

Bldg. 5297

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219010117

Status: Unutilized

Comment: 1080 sq. ft.; most recent use—storehouse; needs rehab.

Bldgs. 5298-5299

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219010118-219010119

Status: Unutilized

Comment: 3759 sq. ft. each; most recent use—general; needs rehab.

Bldgs. 5300, 5302

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219010120, 219010122

Status: Unutilized

Comment: 1400 sq. ft. each; most recent use—day room; needs rehab.

Bldgs. 5301, 5303-5305

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219010121, 219010123-

219010125

Status: Unutilized

Comment: 2124 sq. ft. each; most recent use—barracks; needs rehab.

Bldg. 5306

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219010126

Status: Unutilized

Comment: 2406 sq. ft.; most recent use—dining room; needs rehab.

Bldg. 5307

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219010127

Status: Unutilized

Comment: 1216 sq. ft.; most recent use—arms building; needs rehab.

Bldg. 5308

Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Number: 219010128
Status: Unutilized
Comment: 1680 sq. ft.; most recent use—
storehouse; needs rehab.

Bldg. 5309

Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Number: 219010129
Status: Unutilized
Comment: 1829 sq. ft.; most recent use—
clinic; needs rehab.

Bldg. 5310

Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Number: 219010130
Status: Unutilized
Comment: 3484 sq. ft.; most recent use—
diagnostic center; needs rehab.

Bldg. 5311

Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Number: 219010131
Status: Unutilized
Comment: 5767 sq. ft.; most recent use—post
exchange (store); needs rehab.

Bldg. 5315

Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Number: 219010132
Status: Unutilized
Comment: 2930 sq. ft.; most recent use—
hdqts. bldg.; needs rehab.

Bldg. 5316

Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Number: 219010133
Status: Unutilized
Comment: 1400 sq. ft.; most recent use—day
room; needs rehab.

Bldg. 5320

Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Number: 219010134
Status: Unutilized
Comment: 2124 sq. ft.; most recent use—
barracks; needs rehab.

Bldgs. 5366-5367

Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Numbers: 219010135-219010136
Status: Unutilized
Comment: 3759 sq. ft. each; most recent use—
recreation bldg.; needs rehab.

Bldg. 5390

Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Number: 219010137
Status: Unutilized
Comment: 2432 sq. ft.; most recent use—
dining room; needs rehab.

Bldg. 5328

Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Number: 219010139
Status: Unutilized
Comment: 2486 sq. ft.; most recent use—arms
bldg.; needs rehab.

Bldg. 5324

Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Number: 219010141
Status: Unutilized

Comment: 2124 sq. ft.; most recent use—
barracks; needs rehab.

Bldgs. 5323

Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Numbers: 219010142
Status: Unutilized
Comment: 2525 sq. ft. ea.; most recent use—
dining room; needs rehab.

Bldg. 5322, 5321

Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Numbers: 219010143-219010144
Status: Unutilized
Comment: 2124 sq. ft. each; most recent use—
barracks; needs rehab.

Bldgs. 5360, 5361, 5363

Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Numbers: 219010145-219010146,
219010148
Status: Unutilized
Comment: 3759 sq. ft.; most recent use—
recreation bldg.; needs rehab.

Bldg. 5362

Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Number: 219010147
Status: Unutilized
Comment: 5559 sq. ft.; most recent use—
service club; needs rehab.

Bldg. 5365

Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Number: 219010150
Status: Unutilized
Comment: 3759 sq. ft.; most recent use—
recreation bldg.; needs rehab.

Bldg. 5392

Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Number: 219010151
Status: Unutilized
Comment: 2432 sq. ft.; most recent use—
dining room; needs rehab.

Bldg. 5391

Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Number: 219010152
Status: Unutilized
Comment: 2432 sq. ft.; most recent use—
dining room needs rehab.

Bldg. 4805

Fort Benning
Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Number: 219011447
Status: Unutilized
Comment: 1098 sq. ft., 1 floor, most recent
use—storehouse, needs rehab.

Bldgs. 4867-4870

Fort Benning
Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Numbers: 219011448, 219011450-
219011452

Status: Unutilized

Comment: 1888 sq. ft. each, 2 floors; most
recent use—trainee barracks; needs rehab/
major construction to be habitable.

Bldg. 4871

Fort Benning
Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army

Property Number: 219011453

Status: Unutilized

Comment: 1507 sq. ft.; 1 floor; most recent
use—day room; needs major rehab/
construction to be made habitable.

Bldg. 4875

Fort Benning
Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Number: 219011455
Status: Unutilized

Comment: 1888 sq. ft.; 2 floors; most recent
use—BN classrooms; major rehab/
construction required to be habitable.

Bldg. 4872

Fort Benning
Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Number: 219011458
Status: Unutilized

Comment: 2183 sq. ft.; 1 floor; most recent
use—dining room; major construction
required to be made habitable.

Bldg. 4873

Fort Benning
Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Number: 219011465
Status: Unutilized

Comment: 2183 sq. ft.; 1 floor; most recent
use—dining room; major construction
required to be made habitable.

Bldg. 4874

Fort Benning
Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Number: 219011467
Status: Unutilized

Comment: 1507 sq. ft.; 1 floor; most recent
use—day room; major construction
required to be made habitable.

Bldgs. 4877, 4878, 4878, 4880, 4902-4905

Fort Benning
Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Numbers: 219011468, 219011470,
219011472, 219011474, 219011476-219011479
Status: Unutilized
Comment: 1888 sq. ft. each; 2 floors; most
recent use—trainee barracks; major rehab/
construction required to be habitable.

Bldg. 4906

Fort Benning
Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Number: 219011480
Status: Unutilized

Comment: 1507 sq. ft.; 1 floor; most recent
use—day room; major construction
required to be made habitable.

Bldgs. 4907, 4908

Fort Benning
Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Numbers: 219011481, 219011482
Status: Unutilized

Comment: 2183 sq. ft. each; 1 floor; most
recent use—dining room facility; major
construction required to be made habitable.

Bldg. 4909

Fort Benning
Fort Benning Co: Muscogee GA 31905-
Landholding Agency: Army
Property Number: 219011483

Status: Unutilized

Comment: 1507 sq. ft.; 1 floor; most recent use—day room; major construction required to be made habitable.

Bldg. 4901

Fort Benning

Fort Benning Co: Muscogee GA 31905—

Landholding Agency: Army

Property Number: 219011484

Status: Unutilized

Comment: 810 sq. ft.; 1 floor; most recent use—other inst st.; major rehab/construction to be made habitable is required.

Bldg. 4866

Fort Benning

Fort Benning Co:

Fort Benning GA 31905—

Landholding Agency: Army

Property Number: 219011485

Status: Unutilized

Comment: 794 sq. ft.; 1 floor; most recent use—arms bldg.; major rehab/construction required to be made habitable.

Bldg. 4879

Fort Benning

Fort Benning Co: Muscogee GA 31905—

Landholding Agency: Army

Property Number: 219011486

Status: Unutilized

Comment: 794 sq. ft.; 1 floor; most recent use—arms building; major rehab/construction required to be habitable.

Bldgs. 4605, 4615

Fort Benning

Fort Benning Co: Muscogee GA 31905—

Landholding Agency: Army

Property Numbers: 219011493–219011494

Status: Unutilized

Comment: 915 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldgs. 4642, 4643

Fort Benning

Fort Benning Co: Muscogee GA 31905—

Landholding Agency: Army

Property Numbers: 219011495–219011496

Status: Unutilized

Comment: 3,068 sq. ft. each, buildings in poor condition, major construction needed to be made habitable.

Bldgs. 4747, 4834

Fort Benning

Fort Benning Co: Muscogee GA 31905—

Landholding Agency: Army

Property Numbers: 219011497–219011498

Status: Unutilized

Comment: 794 sq. ft. each, buildings in poor condition, major construction needed to be made habitable.

Bldg. 4835

Fort Benning

Fort Benning Co: Muscogee GA 31905—

Landholding Agency: Army

Property Number: 219011499

Status: Unutilized

Comment: 1,501 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldgs. 4840, 4841

Fort Benning

Fort Benning Co: Muscogee GA 31905—

Landholding Agency: Army

Property Numbers: 219011500–219011501

Status: Unutilized

Comment: 2,930 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4843

Fort Benning

Fort Benning Co: Muscogee GA 31905—

Landholding Agency: Army

Property Number: 219011502

Status: Unutilized

Comment: 1,776 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4844

Fort Benning

Fort Benning Co: Muscogee GA 31905—

Landholding Agency: Army

Property Number: 219011503

Status: Unutilized

Comment: 3,776 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4846

Fort Benning

Fort Benning Co: Muscogee GA 31905—

Landholding Agency: Army

Property Number: 219011504

Status: Unutilized

Comment: 1,455 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4847

Fort Benning

Fort Benning Co: Muscogee GA 31905—

Landholding Agency: Army

Property Number: 219011505

Status: Unutilized

Comment: 900 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4848

Fort Benning

Fort Benning Co: Muscogee GA 31905—

Landholding Agency: Army

Property Number: 219011506

Status: Unutilized

Comment: 804 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldgs. 4851–4854, 4859–4862

Fort Benning

Fort Benning Co: Muscogee GA 31905—

Landholding Agency: Army

Property Numbers: 219011507–219011510,

219011515–219011518

Status: Unutilized

Comment: 1,888 sq. ft. each, buildings in poor condition, major construction needed to be made habitable.

Bldg. 4855

Fort Benning

Fort Benning Co: Muscogee GA 31905—

Landholding Agency: Army

Property Number: 219011511

Status: Unutilized

Comment: 1,507 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4856

Fort Benning

Fort Benning Co: Muscogee GA 31905—

Landholding Agency: Army

Property Number: 219011512

Status: Unutilized

Comment: 2,183 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4857

Fort Benning

Fort Benning Co: Muscogee GA 31905—

Landholding Agency: Army

Property Number: 219011513

Status: Unutilized

Comment: 2,160 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4858

Fort Benning

Fort Benning Co: Muscogee GA 31905—

Landholding Agency: Army

Property Number: 219011514

Status: Unutilized

Comment: 1,507 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4863

Fort Benning

Fort Benning Co: Muscogee GA 31905—

Landholding Agency: Army

Property Number: 219011519

Status: Unutilized

Comment: 794 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4864

Fort Benning

Fort Benning Co: Muscogee GA 31905—

Landholding Agency: Army

Property Number: 219011520

Status: Unutilized

Comment: 1,292 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4507

Fort Benning

Fort Benning Co: Muscogee GA 31905—

Landholding Agency: Army

Property Number: 219011673

Status: Unutilized

Comment: 1888 sq. ft.; most recent use—barracks, needs substantial rehabilitation, 2 floors.

Bldgs. 4506, 4505

Fort Benning

Fort Benning Co: Muscogee GA 31905—

Landholding Agency: Army

Property Numbers: 219011675–219011676

Status: Unutilized

Comment: 2145 sq. ft. each; most recent use—dining facilities, needs substantial rehabilitation, 1 floor.

Bldg. 4487

Fort Benning

Fort Benning Co: Muscogee GA 31905—

Landholding Agency: Army

Property Number: 219011681

Status: Unutilized

Comment: 1868 sq. ft.; most recent use—telephone exchange bldg.; needs substantial rehabilitation; 1 floor.

Bldg. 4484

Fort Benning

Fort Benning Co: Muscogee GA 31905—

Landholding Agency: Army

Property Number: 219011682

Status: Unutilized

Comment: 1098 sq. ft.; most recent use—storehouse; needs substantial rehabilitation; 1 floor.

Bldg. 4319

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219011683

Status: Unutilized

Comment: 2584 sq. ft.; most recent use—vehicle maintenance shop; needs substantial rehabilitation; 1 floor.

Bldgs. 4481, 4479

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219011685-219011686

Status: Unutilized

Comment: 1507 sq. ft. each; most recent use—administrative (day room); needs substantial rehabilitation; 1 floor.

Bldg. 3400

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219011694

Status: Unutilized

Comment: 2570 sq. ft.; most recent use—fire station; needs substantial rehabilitation; 1 floor.

Bldg. 2285

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219011704

Status: Unutilized

Comment: 4574 sq. ft.; most recent use—clinic; needs substantial rehabilitation; 1 floor.

Bldg. 4092

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219011709

Status: Unutilized

Comment: 336 sq. ft.; most recent use—inflammable materials storage; needs substantial rehabilitation; 1 floor.

Bldg. 4089

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219011710

Status: Unutilized

Comment: 176 sq. ft.; most recent use—gas station; needs substantial rehabilitation; 1 floor.

Bldg. 5266

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219012364

Status: Unutilized

Comment: 1400 sq. ft.; one story; most recent use—day room; in poor condition; needs major rehab.

Bldgs. 5267-5275, 5277-5283

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219012365, 219012367-

219012370, 219012372-219012375,

219012378-219012379, 219012381-219012383,

219012385-219012386

Status: Unutilized

Comment: 2124 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major repair.

Bldg. 4936

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219012368

Status: Unutilized

Comment: 1888 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. 4937

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219012389

Status: Unutilized

Comment: 2183 sq. ft.; 1 story; most recent use—dining room; poor condition; needs major rehab.

Bldg. 4938

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219012391

Status: Unutilized

Comment: 1320 sq. ft.; one story; most recent use—administrative; poor condition; needs major rehab.

Bldg. 4939

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219012392

Status: Unutilized

Comment: 1800 sq. ft.; one story; most recent use—classrooms; poor condition; needs major rehab.

Bldg. 4951

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219012394

Status: Unutilized

Comment: 2192 sq. ft.; one story; most recent use—storehouse; poor condition; needs major rehab.

Bldg. 4953

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219012395

Status: Unutilized

Comment: 794 sq. ft.; 1 story; most recent use—storehouse; poor condition; needs major rehab.

Bldg. 4954

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219012397.

Status: Unutilized

Comment: 1888 sq. ft.; 2 story; most recent use—custody fac.; poor condition; needs major rehab.

Bldg. 4926

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219012398

Status: Unutilized

Comment: 1888 sq. ft.; 2 story; most recent use—classrooms; poor condition; needs major rehab.

Bldg. 4925

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219012400

Status: Unutilized

Comment: 1507 sq. ft.; one story; most recent use—classroom; poor condition; needs major rehab.

Bldg. 4924

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219012401

Status: Unutilized

Comment: 2183 sq. ft.; one story; most recent use—dining room; poor condition; needs major rehab.

Bldgs. 4919, 4918, 4929, 4931, 4912, 4933, 4935

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219012403-219012404,

219012406, 219012410, 219012417-219012418,

219012422

Status: Unutilized

Comment: 1888 sq. ft. each; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldgs. 4917, 4930

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219012405, 219012408

Status: Unutilized

Comment: 810 sq. ft. each; 1 story; most recent use—arms building; poor condition; needs major rehab.

Bldg. 5287

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219012411

Status: Unutilized

Comment: 1216 sq. ft.; 1 story; most recent use—arms building; poor condition; needs major rehab.

Bldg. 4934

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219012419

Status: Unutilized

Comment: 1507 sq. ft.; one story; most recent use—dayroom; needs major rehab.

Bldg. 4932

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219012421

Status: Unutilized

Comment: 794 sq. ft.; 1 story; most recent use—storehouse; needs rehab.

Bldgs. 34402, 34404, 35401

Fort Gordon

Augusta Co: Richmond GA 30905-

Location: Located on Barnes Avenue and 20th Street.

Landholding Agency: Army

Property Numbers: 219014285-219014287

Status: Unutilized

Comment: 4524 sq. ft. each; 2 story wood structure; needs major rehab; off-site use only.

Bldgs. 1235, 1236

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219014887-219014888

Status: Unutilized

Comment: 9367 sq. ft.; 1 story building; needs rehab; most recent use—general storehouse.

Bldg. 1251

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014889

Status: Unutilized

Comment: 18385 sq. ft.; 1 story building; needs rehab; most recent use—arms repair shop.

Bldg. 2591

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014908

Status: Unutilized

Comment: 1663 sq. ft.; 1 story building; needs rehab; most recent use—general storehouse.

Bldgs. 3005-3010

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219014907-219014912

Status: Unutilized

Comment: 7688 sq. ft. each; 2 story building; needs rehab; most recent use—barracks.

Bldg. 3080

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014913

Status: Unutilized

Comment: 1372 sq. ft.; 1 story building; needs rehab; most recent use—general storehouse.

Bldg. 3081

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014914

Status: Unutilized

Comment: 2284 sq. ft.; 1 story building; needs rehab; most recent use—clinic.

Bldg. 4022

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014915

Status: Unutilized

Comment: 1712 sq. ft.; 1 story building; needs rehab; most recent use—clinic.

Bldg. 4491

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014916

Status: Unutilized

Comment: 18240 sq. ft.; 1 story building; needs rehab; most recent use—vehicle maintenance shop.

Bldg. 4500

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014917

Status: Unutilized

Comment: 1372 sq. ft.; 1 story building; needs rehab; most recent use—arms building.

Bldg. 4511

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014918

Status: Unutilized

Comment: 4720 sq. ft.; 2 story building; needs rehab; most recent use—barracks.

Bldg. 4633

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014919

Status: Unutilized

Comment: 5069 sq. ft.; 1 story building; needs rehab; most recent use—training building.

Bldg. 4634

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014920

Status: Unutilized

Comment: 5069 sq. ft.; 1 story building; needs rehab; most recent use—training building.

Bldgs. 4646, 4690

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219014921, 219014923

Status: Unutilized

Comment: 1372 sq. ft. each; 1 story building; needs rehab; most recent use—general storehouse.

Bldg. 4649

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014922

Status: Unutilized

Comment: 2250 sq. ft.; 1 story building; needs rehab; most recent use—headquarters building.

Bldg. 4751

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014924

Status: Unutilized

Comment: 3960 sq. ft.; 1 story building; needs rehab; most recent use—recreation building.

Bldg. 4752

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014925

Status: Unutilized

Comment: 2284 sq. ft.; 1 story building; needs rehab; most recent use—headquarters building.

Bldg. 95

Fort Benning

Ft. Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219120253

Status: Unutilized

Comment: 1006 sq. ft., 1 story, most recent use—fire station annex, needs rehab.

Bldg. 1234

Fort Benning

Ft. Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219120254

Status: Unutilized

Comment: 16148 sq. ft., 2 story, most recent use—officer's club, needs rehab.

Bldg. 1684

Fort Benning

Ft. Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219120255

Status: Unutilized

Comment: 2671 sq. ft., 1 story, needs rehab, most recent use—administration/general purpose.

Bldgs. 1724, 1827

Fort Benning

Ft. Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219120256, 219120257

Status: Unutilized

Comment: 943 sq. ft. each, 1 story, needs rehab, most recent use—general purpose warehouse.

Bldg. 2150

Fort Benning

Ft. Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219120258

Status: Unutilized

Comment: 3909 sq. ft., 1 story, needs rehab, most recent use—general inst. bldg.

Bldgs. 2212, 2213

Fort Benning

Ft. Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219120259-219120260

Status: Unutilized

Comment: 4720 sq. ft. each, 2 story, needs rehab, most recent use—drug abuse center.

Bldg. 2214

Fort Benning

Ft. Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219120261

Status: Unutilized

Comment: 2253 sq. ft., 1 story, needs rehab, most recent use—enlisted persons dining room.

Bldg. 2215

Fort Benning

Ft. Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219120262

Status: Unutilized

Comment: 1844 sq. ft., 1 story, needs rehab, most recent use—day room.

Bldg. 2409

Fort Benning

Ft. Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219120263

Status: Unutilized

Comment: 9348 sq. ft., 1 story, needs rehab, most recent use—general purpose warehouse.

Bldg. 2548

Fort Benning

Ft. Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219120264

Status: Unutilized

Comment: 2337 sq. ft., 1 story, needs rehab, most recent use—clinic w/o beds.

Bldg. 2590

Fort Benning

Ft. Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219120265

Status: Unutilized

Comment: 3132 sq. ft., 1 story, needs rehab, most recent use—vehicle maintenance shop.

Bldg. 3828

Fort Benning

Ft. Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219120266

Status: Unutilized

Comment: 628 sq. ft., 1 story, needs rehab, most recent use—general storehouse.

Bldg. 5284

Fort Benning

Ft. Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219120267

Status: Unutilized

Comment: 5310 sq. ft., 2 story, needs rehab, most recent use—trainee barracks.

Indiana

Bldg. 719-1

Indiana Army Ammunition Plant

Charlestown Co: Clark IN

Landholding Agency: Army

Property Number: 219013578

Status: Underutilized

Comment: 5000 sq. ft.; 1 story brick frame; secured area with alternate access; most recent use—administration.

Bldg. 703-1C

Indiana Army Ammunition Plant

Charlestown Co: Clark IN

Location:

Gate 22 off Highway 22

Landholding Agency: Army

Property Number: 219013761

Status: Underutilized

Comment: 4000 sq. ft.; 2 story brick frame; possible asbestos; most recent use—exercise area.

Bldg. 1011 (Portion of)

Indiana Army Ammunition Plant

End of 3rd Street

Charlestown Co: Clark IN

Location: East of State Highway 62 at Gate 3

Landholding Agency: Army

Property Number: 219013762

Status: Underutilized

Comment: 4040 sq. ft.; 1 story concrete block frame; possible asbestos; secured area with alternate access; most recent use—office.

Bldg. 1001 (Portion of)

Indiana Army Ammunition Plant

Charlestown Co: Clark IN

Location: South end of 3rd Street, East of Highway 62 at entrance gate.

Landholding Agency: Army

Property Number: 219013763

Status: Underutilized

Comment: 55630 sq. ft.; 1 story concrete block; possible asbestos; secured area with alternate access; most recent use—cloth bag manufacturing.

Bldg. 720

Indiana Army Ammunition Plant

Charlestown Co: Clark IN

Landholding Agency: Army

Property Number: 219013765

Status: Underutilized

Comment: 5000 sq. ft.; 2 story brick frame; possible asbestos; secured area with alternate access; most recent use—administrative.

Kansas

Bldg. T-1383

Fort Riley

Fort Riley Co: Geary KS 66442-

Landholding Agency: Army

Property Number: 219013774

Status: Unutilized

Comment: 3864 sq. ft.; 2 story wood frame; possible asbestos; most recent use—open-bay trainee barracks with gang latrine.

Bldg. T-2080

Fort Riley

Fort Riley Co: Geary KS 66442-

Landholding Agency: Army

Property Number: 219013775

Status: Unutilized

Comment: 3852 sq. ft.; 2 story wood frame; possible asbestos; most recent use—open-bay trainee barracks with gang latrine.

Bldg. T-2324

Fort Riley

Fort Riley Co: Geary KS 66442-

Landholding Agency: Army

Property Number: 219013777

Status: Unutilized

Comment: 3422 sq. ft.; 2 story wood frame; possible asbestos; most recent use—open-bay trainee barracks with gang latrines.

Bldg. T-1351

Fort Riley Co: Geary KS 66442-

Landholding Agency: Army

Property Number: 219210284

Status: Unutilized

Comment: 4862 sq. ft., 2 story wood frame, most recent use—barracks, needs rehab, presence of asbestos.

Bldg. T-1363

Fort Riley Co: Geary KS 66442-

Landholding Agency: Army

Property Number: 219210285

Status: Unutilized

Comment: 1190 sq. ft., 1 story wood frame, most recent use—admin., needs rehab, presence of asbestos.

Bldg. T-2153

Fort Riley Co: Geary KS 66442-

Landholding Agency: Army

Property Number: 219210286

Status: Unutilized

Comment: 4826 sq. ft., 2 story wood frame, most recent use—barracks, needs rehab, presence of asbestos.

Bldg. T-2336

Fort Riley Co: Geary KS 66442-

Landholding Agency: Army

Property Number: 219210287

Status: Unutilized

Comment: 2345 sq. ft., 1 story wood frame, most recent use—admin., needs rehab, presence of asbestos.

Bldgs. 1358-1360, 1439, 1454-1455, 1461, 1398-1399

Fort Leavenworth

Pershing Park

Leavenworth, KS, Leavenworth, Zip: 66027-

Property Numbers: 219140105-219140107,

219140115, 219140127-219140128, 219140133,

219140147-219140148

Status: Unutilized

Comment: 1075 sq. ft. each, 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.

Bldgs. 1362, 1457-1458, 1462, 1464, 1396,

Fort Leavenworth

Pershing Park

Leavenworth, KS, Leavenworth, Zip: 66027-

Property Numbers: 219140109, 219140129-

219140131, 219140134, 219140136, 219140145

Status: Unutilized

Comment: 863 sq. ft., 1 story wood frame, needs rehab, off-site use only, presence of asbestos, most recent use—family housing.

Kentucky

Bldg. 104

Fort Campbell

Fort Campbell Co: Christian KY 42223-

Landholding Agency: Army

Property Number: 219010937

Status: Underutilized

Comment: 15066 sq. ft.; two story; possible asbestos; most recent use—barracks.

Bldgs. 126, 141, 147, 149, 161, 165, 167, 169, 143

Fort Campbell

Fort Campbell Co: Christian KY 42223-

Landholding Agency: Army

Property Numbers: 219010938, 219010940-

219010946, 219013139

Status: Underutilized

Comment: 12576 sq. ft. each; two story; possible asbestos; most recent use—storage/child care/administration.

Bldg. 122

Fort Campbell

Fort Campbell Co: Christian KY 42223-

Landholding Agency: Army

Property Number: 219010939

Status: Underutilized

Comment: 1488 sq. ft.; two story; possible asbestos; most recent use—storage and administration.

Bldg. 2244

Fort Campbell

Fort Campbell Co: Christian KY 42223-

Landholding Agency: Army

Property Number: 219010948

Status: Underutilized

Comment: 4248 sq. ft.; possible asbestos; two story; most recent use—storage.

Bldg. 3110

Fort Campbell

Fort Campbell Co: Christian KY 42223-

Landholding Agency: Army

Property Number: 219010950

Status: Unutilized

Comment: 1000 sq. ft.; one story; possible asbestos; most recent use—administration.

Bldgs. 5954, 5956, 5958, 5960

Fort Campbell

Fort Campbell Co: Christian KY 42223-

Landholding Agency: Army

Property Number: 219010953, 219010956,

219010958, 219010961

Status: Unutilized

Comment: 2179 sq. ft. each; one story; possible asbestos; most recent use—military vehicle maintenance shop, organizational.

Bldg. 6605

Fort Campbell

Fort Campbell Co: Christian KY 42223-

Landholding Agency: Army

Property Number: 219010968

Status: Underutilized

Comment: 1968 sq. ft.; one story; most recent use—storage.

Bldg. 3148

Ft. Campbell

Ft. Campbell Co: Christian KY 42223-

Landholding Agency: Army

Property Number: 219013223

Status: Underutilized

Comment: 2200 sq. ft.; 1 story; possible asbestos; selected periods used for military/training exercises.

Bldgs. 5001-5002, 5004, Fort Knox

Ft. Knox, KY, Hardin, Zip: 40121-
Landholding Agency: Army
Property Numbers: 219210298-219210299,
219210301
Status: Unutilized
Comment: 7670 sq. ft. ea., 2 story, presence of
asbestos, needs rehab, most recent use—
bachelor's officers quarters, off-site use
only.

Bldg. 5003, Fort Knox
Ft. Knox, KY, Hardin, Zip: 40121-
Landholding Agency: Army
Property Number: 219210300
Status: Unutilized
Comment: 2996 sq. ft., 1 story, needs rehab,
presence of asbestos, most recent use—
storage, off-site use only.

Bldgs. 2706 & 2718, Fort Knox
Ft. Knox, KY, Hardin, Zip: 40121-
Landholding Agency: Army
Property Numbers: 219210302-219210303
Status: Unutilized
Comment: 4720 sq. ft. each, 2 story, most
recent use—storage/ admin, off-site use
only.

Bldg. 2839, Fort Knox
Ft. Knox, KY, Hardin, Zip: 40121-
Landholding Agency: Army
Property Number: 219210304
Status: Underutilized
Comment: 1600 sq. ft., 1 story, intermittently
used, most recent use—storage/office, off-
site use only.

Bldg. 2843, Fort Knox
Ft. Knox, KY, Hardin, Zip: 40121-
Landholding Agency: Army
Property Number: 219210305
Status: Unutilized
Comment: 1450 sq. ft., 1 story, needs rehab,
most recent use—storage, off-site use only.

Bldg. 2845, Fort Knox
Ft. Knox, KY, Hardin, Zip: 40121-
Landholding Agency: Army
Property Number: 219210306
Status: Unutilized
Comment: 1144 sq. ft., 1 story, needs rehab,
most recent use—storage, off-site use only.

Bldg. 2918, Fort Knox
Ft. Knox, KY, Hardin, Zip: 40121-
Landholding Agency: Army
Property Number: 219210307
Status: Unutilized
Comment: 1600 sq. ft., 1 story, presence of
asbestos, most recent use—admin./storage,
off-site use only.

Bldg. 4065, Fort Knox
Ft. Knox, KY, Hardin, Zip: 40121-
Landholding Agency: Army
Property Number: 219210308
Status: Unutilized
Comment: 6884 sq. ft., 1 story, needs rehab,
most recent use—offices/classroom/
storage, off-site use only.

Bldg. 4066, Fort Knox
Ft. Knox, KY, Hardin, Zip: 40121-
Landholding Agency: Army
Property Number: 219210309
Status: Unutilized
Comment: 2250 sq. ft., 1 story, needs rehab,
most recent use—storage/offices, off-site
use only.

Louisiana
Bldg. 417
8th Street
Fort Polk Co: Vernon LA 71459-5000
Landholding Agency: Army
Property Number: 219012682
Status: Unutilized
Comment: 7670 sq. ft.; 2 story temporary
wood frame; possible asbestos; most recent
use—BOQ.

Bldg. 7124
Reserve Road
Fort Polk Co: Vernon LA 71459-5000
Landholding Agency: Army
Property Number: 219012688
Status: Unutilized
Comment: 2500 sq. ft.; 1 story temporary
wood frame; most recent use—recreation
room.

Bldgs. 7129-7132, 7134-7135, 7161-7163, 7166-
7168
Fort Polk Co: Vernon LA 71459-5000
Landholding Agency: Army
Property Numbers: 219012689-219012692,
219012694-219012695, 219012699-219012704
Status: Unutilized
Comment: 4957 sq. ft.; 2 story temporary
wood frame; possible asbestos; most recent
use—barracks.

Bldg. 7143
"D" Avenue
Fort Polk Co: Vernon LA 71459-5000
Landholding Agency: Army
Property Number: 219012696
Status: Unutilized
Comment: 2250 sq. ft.; 1 story temporary
wood frame; possible asbestos; most recent
use—dining facility.

Bldg. T-7157
Guard Road
Fort Polk Co: Vernon LA 71459-5000
Landholding Agency: Army
Property Number: 219012698
Status: Unutilized
Comment: 4357 sq. ft.; 2 story; possible
asbestos; most recent use—barracks.

Bldg. 7183
"D" Avenue
Fort Polk Co: Vernon LA 71459-5000
Landholding Agency: Army
Property Number: 219012705
Status: Unutilized
Comment: 2630 sq. ft.; 1 story temporary
wood frame; possible asbestos; most recent
use—dining facility.

Bldg. 7184
"D" Avenue
Fort Polk Co: Vernon LA 71459-5000
Landholding Agency: Army
Property Number: 219012706
Status: Unutilized
Comment: 2830 sq. ft.; 1 story temporary
wood frame; possible asbestos; most recent
use—dining facility.

Bldg. 7187
"D" Avenue
Fort Polk Co: Vernon LA 71459-5000
Landholding Agency: Army
Property Number: 219012707
Status: Unutilized
Comment: 2250 sq. ft.; 1 story temporary
wood frame; possible asbestos; most recent
use—dining facility.

Bldg. 7304
Armored Road
Fort Polk Co: Vernon LA 71459-5000
Landholding Agency: Army
Property Number: 219012712
Status: Unutilized
Comment: 6103 sq. ft.; 2 story temporary
wood frame; most recent use—storage.

Bldg. 7430
1st Street
Fort Polk Co: Vernon LA 71459-5000
Landholding Agency: Army
Property Number: 219012715
Status: Unutilized
Comment: 4987 sq. ft.; 2 story temporary
frame; most recent use—storage.

Bldg. 8026
10th Street
Fort Polk Co: Vernon LA 71459-5000
Landholding Agency: Army
Property Number: 219012724
Status: Underutilized
Comment: 2580 sq. ft.; 1 story temporary
wood frame; most recent use—storage.

Bldg. 8226
12th Street
Fort Polk Co: Vernon LA 71459-5000
Landholding Agency: Army
Property Number: 219012729
Status: Unutilized
Comment: 2050 sq. ft.; 1 story temporary
wood frame; possible asbestos; most recent
use—dining facility.

Bldg. 7175
Fort Polk
3rd Street
Fort Polk Co: Vernon LA 71459-
Landholding Agency: Army
Property Number: 219013770
Status: Excess
Comment: 7527 sq. ft.; temporary wood
structure; scheduled for demolition;
seriously deteriorated.

Bldg. T-4701
Fort Polk
Ft. Polk, LA, Vernon, Zip: 71459-5000
Property Number: 219140045
Status: Unutilized
Comment: 1000 sq. ft., 1 story, most recent
use—office.

Bldg. T-4701B
Fort Polk
Ft. Polk, LA, Vernon, Zip: 71459-5000
Property Number: 219140046
Status: Unutilized
Comment: 660 sq. ft., 1 story, most recent
use—storage.

Bldgs. T-4702, T-4703, T-4705, T-4706
Fort Polk
Ft. Polk, LA, Vernon, Zip: 71459-5000
Property Numbers: 219140047-219140048,
219140050-219140051
Status: Unutilized
Comment: 5913 sq. ft. each, 2 story, most
recent use—storage.

Bldg. T-4704
Fort Polk
Ft. Polk, LA, Vernon, Zip: 71459-5000
Property Number: 219140049
Status: Unutilized
Comment: 3040 sq. ft., 1 story, most recent
use—storage.

Bldg. T-4707
Fort Polk
Ft. Polk, LA, Vernon, Zip: 71459-5000
Property Number: 219140052

Status: Unutilized
Comment: 1045 sq. ft., 1 story, most recent use—office.

Bldg. T-4708

Fort Polk

Polk, LA, Vernon, Zip: 71459-5000

Property Number: 219140053

Status: Unutilized

Comment: 2184 sq. ft., 1 story, most recent use—office.

Bldg. T-4709

Fort Polk

Ft. Polk, LA, Vernon, Zip: 71459-5000

Property Number: 219140054

Status: Unutilized

Comment: 3587 sq. ft., 1 story, most recent use—storage.

Bldgs. T-4716 to T-4724, T-4726 to T-4734

Fort Polk

Ft. Polk, LA, Vernon, Zip: 71459-5000

Property Numbers: 219140055-219140063, 219140065-219140073

Status: Unutilized

Comment: 4357 sq. ft. each, 2 story, most recent use—barracks (storage).

Bldg. T-4725

Fort Polk

Ft. Polk, LA, Vernon, Zip: 71459-5000

Property Number: 219140064

Status: Unutilized

Comment: 3044 sq. ft., 1 story, most recent use—library

Maryland

Bldg. 2030

Aberdeen Proving Ground

Aberdeen City Co: Harford MD 21005-5001

Landholding Agency: Army

Property Number: 219011418

Status: Unutilized

Comment: 3302 sq. ft., one story, possible asbestos.

Bldg. 2174

Aberdeen Proving Ground

Aberdeen City Co: Harford MD 21005-5001

Landholding Agency: Army

Property Number: 219011419

Status: Unutilized

Comment: 3540 sq. ft.; poor condition; utilities disconnected; one story; possible asbestos.

Bldg. 3243

Aberdeen Proving Ground

Aberdeen City Co: Harford MD 21005-5001

Landholding Agency: Army

Property Number: 219011420

Status: Unutilized

Comment: 11800 sq. ft., possible asbestos, two story, potential utilities.

Bldg. 3244

Aberdeen Proving Ground

Aberdeen City Co: Harford MD 21005-5001

Landholding Agency: Army

Property Number: 219011421

Status: Unutilized

Comment: 3302 sq. ft., one story, possible asbestos, potential utilities.

Bldgs. 3621-3624, 3626-3629, 3634-3637, 3639-3642

Aberdeen Proving Ground

Aberdeen City Co: Harford MD 21005-5001

Landholding Agency: Army

Property Numbers: 219011422-219011425, 219011427-219011430, 219011435-219011437, 219011439-219011442

Status: Unutilized

Comment: 4720 sq. ft. each, two story, possible asbestos, poor condition, utilities disconnected.

Bldg. 3625

Aberdeen Proving Ground

Aberdeen City Co: Harford MD 21005-5001

Landholding Agency: Army

Property Number: 219011426

Status: Unutilized

Comment: 2031 sq. ft., one story, utilities disconnected, poor condition, possible asbestos.

Bldg. 3630

Aberdeen Proving Ground

Aberdeen City Co: Harford MD 21005-5001

Landholding Agency: Army

Property Number: 219011431

Status: Unutilized

Comment: 1750 sq. ft., one story, possible asbestos, poor condition, utilities disconnected.

Bldgs. 3631, 3632

Aberdeen Proving Ground

Aberdeen City Co: Harford MD 21005-5001

Landholding Agency: Army

Property Numbers: 219011432, 219011433

Status: Unutilized

Comment: 1513 sq. ft. each, one story, possible asbestos, poor condition, utilities disconnected.

Bldg. 3633

Aberdeen Proving Ground

Aberdeen City Co: Harford MD 21005-5001

Landholding Agency: Army

Property Number: 219011434

Status: Unutilized

Comment: 1754 sq. ft., one story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3638

Aberdeen Proving Ground

Aberdeen City Co: Harford MD 21005-5001

Landholding Agency: Army

Property Number: 219011438

Status: Unutilized

Comment: 18880 sq. ft., one story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3643

Aberdeen Proving Ground

Aberdeen City Co: Harford MD 21005-5001

Landholding Agency: Army

Property Number: 219011443

Status: Unutilized

Comment: 1750 sq. ft., one story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3644

Aberdeen Proving Ground

Aberdeen City Co: Harford MD 21005-5001

Landholding Agency: Army

Property Number: 219011444

Status: Unutilized

Comment: 1541 sq. ft., one story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3645

Aberdeen Proving Ground

Aberdeen City Co: Harford MD 21005-5001

Landholding Agency: Army

Property Number: 219011445

Status: Unutilized

Comment: 1541 sq. ft., one story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3646

Aberdeen Proving Ground

Aberdeen City Co: Harford MD 21005-5001

Landholding Agency: Army

Property Number: 219011446

Status: Unutilized

Comment: 1750 sq. ft., one story, utilities disconnected, possible asbestos, poor condition.

Bldg. E4736

Aberdeen Proving Ground

Edgewood Area

Aberdeen City Co: Harford MD 21010-55425

Landholding Agency: Army

Property Number: 219012621

Status: Unutilized

Comment: possible contamination—under study; potential utilities.

Bldg. 4723

Aberdeen Proving Ground

Edgewood Area

Aberdeen City Co: Harford MD 21010-5425

Landholding Agency: Army

Property Number: 219012643

Status: Unutilized

Comment: 3250 sq. ft.; potential utilities; poor condition; possible asbestos.

Bldg. 5104

Aberdeen Proving Ground

Edgewood Area

Aberdeen City Co: Harford MD 21010-5425

Landholding Agency: Army

Property Number: 219012644

Status: Unutilized

Comment: 624 sq. ft.; trailer; potential utilities; poor condition.

Bldgs. E5878, E5879

Aberdeen Proving Ground

Edgewood Area

Aberdeen City Co: Harford MD 21010-5425

Landholding Agency: Army

Property Numbers: 219012652, 219012653

Status: Unutilized

Comment: 213 sq. ft. each; structural deficiencies; possible asbestos; and contamination.

Bldg. E5974

Aberdeen Proving Ground

Edgewood Area

Aberdeen City Co: Harford MD 21010-5425

Landholding Agency: Army

Property Number: 219012654

Status: Unutilized

Comment: 272 sq. ft.; possible asbestos and contamination; most recent use—headquarters building.

Bldg. 10302

Aberdeen Proving Ground

Edgewood Area

Aberdeen City Co: Harford MD 21010-5425

Landholding Agency: Army

Property Number: 219012666

Status: Unutilized

Comment: 42 sq. ft.; possible asbestos; most recent use—pumping station.

Bldg. E5978

Aberdeen Proving Ground

Edgewood Area

Aberdeen City Co: Harford MD 21010-5425

Landholding Agency: Army

Property Number: 219012667

Status: Unutilized

Comment: 256 sq. ft.; 1 story; structural deficiencies; possible asbestos and

contamination; most recent use—general storehouse.

Bldg. E5975

Aberdeen Proving Ground
Edgewood Area
Aberdeen City Co: Harford MD 21010-5425
Landholding Agency: Army
Property Number: 219012677
Status: Unutilized

Comment: 650 sq. ft.; possible contamination; structural deficiencies most recent use—training exercises/chemicals and explosives; potential use—storage.

Bldg. 6926

Taylor Avenue
Fort Meade Co: Anne Arundel MD 21061
Landholding Agency: Army
Property Number: 219013605
Status: Unutilized

Comment: 1275 sq. ft.; 1 story frame with basement (216 sq. ft.); possible asbestos; termite damage.

Bldgs. 832, 2815

Fort Meade
Fort Meade Co: Anne Arundel MD 21061
Landholding Agency: Army
Property Numbers: 219013608, 219014855
Status: Unutilized

Comment: 2208 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab.

Bldg. 841

Fort Meade
15th Street
Fort Meade Co: Anne Arundel MD 21061
Landholding Agency: Army
Property Number: 219013610
Status: Unutilized

Comment: 3537 sq. ft.; 1 story with balcony; possible asbestos; no furnace; needs major rehab.

Bldg. 2173

Aberdeen Proving Ground
Aberdeen City Co: Harford MD 21005-5001
Landholding Agency: Army
Property Number: 219013772
Status: Unutilized

Comment: 3540 sq. ft.; 1 story temporary frame; possible asbestos; most recent use—barracks.

Bldg. 197

Fort George G. Meade 1st and Chisholm Streets
Fort Meade Co: Anne Arundel MD 20755-
Landholding Agency: Army
Property Number: 219014848
Status: Unutilized

Comment: 7670 sq. ft.; 2 story wood frame; needs rehab; secured area with alternate access; possible asbestos.

Bldg. 6599

Fort George G. Meade Zimborski Road
Fort Meade Co: Anne Arundel MD 20755-
Landholding Agency: Army
Property Number: 219014852
Status: Unutilized

Comment: 4173 sq. ft.; 1 story wood frame; needs rehab; secured area with alternate access.

Bldgs. 378, 373

Fort George G. Meade
Fort Meade Co: Anne Arundel MD 20755-
Landholding Agency: Army
Property Numbers: 219014853, 219014854
Status: Underutilized

Comment: 1144 sq. ft.; 1 story wood frame; secured area with alternate access; possible asbestos; most recent use—storage.

Bldg. 2816

Fort George G. Meade Chisholm Street
Fort Meade Co: Anne Arundel MD 20755-
Landholding Agency: Army
Property Number: 219014860
Status: Unutilized

Comment: 1676 sq. ft.; 1 story wood frame; secured area with alternate access; possible asbestos; most recent use—storage.

Bldgs. 543, 357, 2413

Fort George G. Meade
Fort Meade Co: Anne Arundel MD 20755-
Landholding Agency: Army
Property Numbers: 219014866, 219014871, 219014875
Status: Unutilized

Comment: 4720 sq. ft. each; 2 story wood frame; needs rehab; secured area with alternate access; possible asbestos.

Bldg. 649

Fort George G. Meade Chamberlain Avenue
Fort Meade Co: Anne Arundel MD 20755-
Landholding Agency: Army
Property Number: 219014864
Status: Underutilized

Comment: 2594 sq. ft.; 1 story wood frame; possible asbestos; secured area with alternate access; needs rehab; most recent use—storage.

Bldg. 269

Fort George G. Meade Chisholm Street
Fort Meade Co: Anne Arundel MD 20755-
Landholding Agency: Army
Property Number: 219014873
Status: Underutilized

Comment: 3537 sq. ft.; 1 story wood frame; possible asbestos; needs rehab; secured area with alternate access; most recent use—storage.

Bldg. 2419

Fort George G. Meade Behind
Bldg 2427—Earnie Pyle Street
Fort Meade Co: Anne Arundel MD 20755-
Landholding Agency: Army
Property Number: 219014878
Status: Underutilized

Comment: 2441 sq. ft.; 1 story wood frame; needs rehab; possible asbestos; secured area with alternate access; most recent use—arms room.

Bldg. 2426

Fort George G. Meade Earnie Pyle Street
Fort Meade Co: Anne Arundel MD 20755-
Landholding Agency: Army
Property Number: 219014880
Status: Unutilized

Comment: 7670 sq. ft.; 1 story wood frame; needs rehab; secured area with alternate access; possible asbestos.

Bldg. 2847

Fort George G. Meade Earnie Pyle Street
Fort Meade Co: Anne Arundel MD 20755-
Landholding Agency: Army
Property Number: 219014883
Status: Unutilized

Comment: 3663 sq. ft.; 1 story wood frame; possible asbestos; secured area with alternate access; most recent use—gym.

Bldg. 6599 Ft. George G. Meade 6599
Zimborski Road Ft. Meade Co: Anne
Arundel MD 20755-5115

Landholding Agency: Army
Property Number: 219030002
Status: Unutilized

Comment: 4173 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab; most recent use—PX exchange facility.

Bldg. 533

Fort George Meade
Fort Meade Co: Ann Arundel MD 20755-5115
Landholding Agency: Army
Property Number: 219040001
Status: Unutilized

Comment: 6525 sq. ft.; one story; wood frame; possible asbestos; needs major rehab; secured area w/alternate access.

Bldg. 523

Fort George Meade
Fort Meade Co: Ann Arundel MD 20755-5115
Landholding Agency: Army
Property Number: 219040002
Status: Unutilized

Comment: 4307 sq. ft.; one story; wood frame; possible asbestos; needs major rehab; secured area w/alternate access.

Massachusetts

Bldgs. T-2732, T-2281

Fort Devens

Fort Devens Co: Middlesex/Worce MA
01433-

Landholding Agency: Army
Property Numbers: 219012343-219012344
Status: Unutilized

Comment: 6351 sq. ft. each, wood, two stories, most recent use—housing.

Bldg. T-201

Fort Devens

Fort Devens Co: Middlesex/Worce MA
01433-

Landholding Agency: Army
Property Number: 219012363
Status: Unutilized

Comment: 1000 sq. ft., wood structure-needs rehab, no sanitary facilities, most recent use—company admin/supply.

Bldg. KB-0021

Fort Devens Ft. Rodman MA 02744-
Landholding Agency: Army
Property Number: 219140027
Status: Unutilized

Comment: 4926 sq. ft., 1 story wood, presence of asbestos, most recent use—storage.

Bldg. KB-0100

Fort Devens Ft. Rodman MA 02744-
Landholding Agency: Army
Property Number: 219140028
Status: Unutilized

Comment: 9100 sq. ft., 1 story insulated monopanel, most recent use—reserve center.

Bldg. KB-0102

Fort Devens

Ft. Rodman MA 02744-
Landholding Agency: Army
Property Number: 219140029
Status: Unutilized

Comment: 15480 sq. ft., 1 story concrete block, most recent use—reserve center.

Bldg. T-0208

Fort Devens

Ft. Devens Co: Middlesex/Worce MA 01433-

Landholding Agency: Army
Property Number: 219140030
Status: Unutilized
Comment: 4720 sq. ft., 2 story wood, presence of asbestos, needs rehab.

Bldg. T-0209
Fort Devens
Ft. Devens Co: Middlesex/Worce MA 01433-
Landholding Agency: Army
Property Number: 2219140031
Status: Unutilized
Comment: 4720 sq. ft., 2 story wood, presence of asbestos, needs rehab.

Bldg. T-0236
Fort Devens
Ft. Devens Co: Middlesex/Worce MA 01433-
Landholding Agency: Army
Property Number: 219140032
Status: Unutilized
Comment: 4613 sq. ft., 1 story wood, presence of asbestos, needs rehab.

Bldg. T-2676
Fort Devens
Ft. Devens Co: Middlesex/Worce MA 01433-
Landholding Agency: Army
Property Number: 219140033
Status: Unutilized
Comment: 1176 sq. ft., 1 story wood, presence of asbestos, needs rehab.

Minnesota

Le Sueur USAR Center
620 Turill Street
Le Sueur Co: Le Sueur MN 56058-
Landholding Agency: Army
Property Number: 219013558
Status: Underutilized
Comment: 4316/1325 sq. ft.; 1 story; most recent use—storage.

Missouri

Bldg. T6818
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219140044
Status: Unutilized
Comment: 10092 sq. ft., 1 story concrete/block frame, presence of not asbestos, not handicapped accessible, limited utilities.

Bldgs. T2132, T1370, T1483
Fort Leonard Wood
Ft. Leonard Wood, MO, Pulaski, Zip: 65473-5000

Landholding Agency: Army
Property Numbers: 219210243, 219210267, 219210268
Status: Underutilized
Comment: 1296 sq. ft. each, 1 story, presence of asbestos, off-site use only.

Bldg. 2365
Fort Leonard Wood
Ft. Leonard Wood, MO, Pulaski, Zip: 65473-5000

Landholding Agency: Army
Property Number: 219210244
Status: Underutilized
Comment: 1876 sq. ft., 1 story, presence of asbestos, off-site use only.

Bldgs. 2127, 2118
Fort Leonard Wood
Ft. Leonard Wood, MO, Pulaski, Zip: 65473-5000

Landholding Agency: Army
Property Numbers: 219210245-219210246

Status: Underutilized
Comment: 2895 sq. ft. each, 1 story, presence of asbestos, off-site use only.

Bldg. 2138
Fort Leonard Wood
Ft. Leonard Wood, MO, Pulaski, Zip: 65473-5000

Landholding Agency: Army
Property Number: 219210247
Status: Underutilized
Comment: 2284 sq. ft., 1 story, presence of asbestos, off-site use only.

Bldg. P601
Fort Leonard Wood
Ft. Leonard Wood, MO, Pulaski, Zip: 65473-5000

Landholding Agency: Army
Property Number: 219210248
Status: Underutilized
Comment: 4194 sq. ft., 1 story, presence of asbestos, off-site use only.

Bldg. T1910
Fort Leonard Wood
Ft. Leonard Wood, MO, Pulaski, Zip: 65473-5000

Landholding Agency: Army
Property Number: 219210249
Status: Underutilized
Comment: 2740 sq. ft., 1 story, presence of asbestos, off-site use only.

Bldgs. T2115-T2117, T2119, T2122-T2125, T2130-T2131, T-2134, T2176, T1486, T1909, T2174, T2180, T2194, T2175, T2354
Fort Leonard Wood
Ft. Leonard Wood, MO, Pulaski, Zip: 65473-5000

Landholding Agency: Army
Property Numbers: 219210250-219210261, 219210263, 219210269-219210274
Status: Underutilized
Comment: 4720 sq. ft. each, 2 story, most recent use—barracks, presence of asbestos, off-site use only.

Bldg. T1477
Fort Leonard Wood
Ft. Leonard Wood, MO, Pulaski, Zip: 65473-5000

Landholding Agency: Army
Property Number: 219210262
Status: Unutilized
Comment: 2360 sq. ft., 1 story, presence of asbestos, off-site use only.

Bldg. T1948
Fort Leonard Wood
Ft. Leonard Wood, MO, Pulaski, Zip: 65473-5000

Landholding Agency: Army
Property Number: 219210264
Status: Underutilized
Comment: 1500 sq. ft., 1 story, presence of asbestos, off-site use only.

Bldg. T1830
Fort Leonard Wood
Ft. Leonard Wood, MO, Pulaski, Zip: 65473-5000

Landholding Agency: Army
Property Number: 219210265
Status: Underutilized
Comment: 17,628 sq. ft., 1 story, presence of asbestos, off-site use only.

Bldg. T2128
Fort Leonard Wood
Ft. Leonard Wood, MO, Pulaski, Zip: 65473-5000

Landholding Agency: Army
Property Number: 219210266
Status: Unutilized
Comment: 3663 sq. ft., 1 story, recreation bldg., presence of asbestos, off-site use only.

Bldgs. T3054, T3055
Fort Leonard Wood
Ft. Leonard Wood, MO, Pulaski, Zip: 65473-5000

Landholding Agency: Army
Property Numbers: 219210275-219210276
Status: Underutilized
Comment: 5310 sq. ft. each, 2 story, most recent use—barracks, presence of asbestos, off-site use only.

Bldg. 421
Fort Leonard Wood
Ft. Leonard Wood, MO, Pulaski, Zip: 65473-5000

Landholding Agency: Army
Federal Register Notice Date: 05/29/92
Property Number: 219210277
Status: Unutilized
Comment: 2 story, needs repair, most recent use—office, presence of asbestos, off-site use only.

Nebraska

Bldg. RG-1
Cornhusker Army Ammunition Plant
Old Potash Hwy
Grand Island Co: Hall NE 68803
Landholding Agency: Army
Property Number: 219210292
Status: Unutilized
Comment: 1080 sq. ft., 1 story garage, possible asbestos, secured area with alternate access.

Bldg. RG-2
Cornhusker Army Ammunition Plant
Grand Island Co: Hall NE 68803
Landholding Agency: Army
Property Number: 219210293
Status: Unutilized
Comment: 576 sq. ft., 1 story garage, secured area with alternate access.

Bldg. RG-3
Cornhusker Army Ammunition Plant
Grand Island Co: Hall NE 68803
Landholding Agency: Army
Property Number: 219210294
Status: Unutilized
Comment: 936 sq. ft., 1 story garage, possible asbestos, secured area with alternate access.

Bldg. RG-4
Cornhusker Army Ammunition Plant
Grand Island Co: Hall NE 68803
Landholding Agency: Army
Property Number: 219210295
Status: Unutilized
Comment: 1040 sq. ft., 1 story garage, possible asbestos, secured area with alternate access.

Bldg. RG-5
Cornhusker Army Ammunition Plant
Grand Island Co: Hall NE 68803
Landholding Agency: Army
Property Number: 219210296
Status: Unutilized
Comment: 490 sq. ft., 1 story garage, possible asbestos, secured area with alternate access.

Bldg. RG-6
 Cornhusker Army Ammunition Plant
 Grand Island Co: Hall NE 68803
 Landholding Agency: Army
 Property Number: 219210297
 Status: Unutilized
 Comment: 510 sq. ft., 1 story garage, possible asbestos, secured area with alternate access.

Nevada

Bldgs. 00425-00449
 Hawthorne Army Ammunition Plant
 Schweer Drive Housing Area
 Hawthorne Co: Mineral NV 89415
 Landholding Agency: Army
 Property Numbers: 219011946-219011952,
 219011954, 219011956, 219011959, 219011961,
 219011964, 219011968, 219011970, 219011974,
 219011976-219011978, 219011980, 219011982,
 219011984, 219011987, 219011990, 219011994,
 219011996
 Status: Unutilized
 Comment: 1310-1640 sq. ft. each, one floor
 residential, semi/wood construction, good
 condition.

New Jersey

Bldg. 5316
 Snyder Avenue
 Fort Dix Co: Burlington NJ 08640
 Landholding Agency: Army
 Property Number: 219210280
 Status: Unutilized
 Comment: 700 sq. ft., 1 story cinder block
 structure, windowless.

Bldg. 9111, Evans Area
 Fort Monmouth—Watson Avenue
 Wall Co: Monmouth NJ 07719
 Landholding Agency: Army
 Property Number: 219210288
 Status: Unutilized
 Comment: 1126 sq. ft., 1 story, needs major
 repairs, possible asbestos.

Bldg. 9113, Evans Area
 Fort Monmouth—Watson Avenue
 Wall Co: Monmouth NJ 07719
 Landholding Agency: Army
 Property Number: 219210289
 Status: Unutilized
 Comment: 2000 sq. ft., 1 story, needs major
 repairs, possible asbestos.

Bldg. 9126, Evans Area
 Fort Monmouth—Watson Avenue
 Wall Co: Monmouth NJ 07719
 Landholding Agency: Army
 Property Number: 219210290
 Status: Unutilized
 Comment: 384 sq. ft., 1 story, needs major
 repairs, possible asbestos.

Bldg. 2534, Charles Wood Area
 Fort Monmouth
 Tinton Falls Co: Monmouth NJ
 Landholding Agency: Army
 Property Number: 219210291
 Status: Unutilized
 Comment: 5307 sq. ft., 2 story, most recent
 use—storage, needs rehab, possible
 asbestos.

New York

Bldg. 503
 Fort Totten
 Ordnance Road
 Bayside Co: Queens NY 11357-
 Landholding Agency: Army

Property Number: 219012564
 Status: Unutilized
 Comment: 510 sq. ft., 1 floor, most recent
 use—storage, needs major rehab/no
 utilities.

Bldg. 323
 Fort Totten
 Story Avenue
 Bayside Co: Queens NY 11359-
 Landholding Agency: Army
 Property Number: 219012567
 Status: Unutilized
 Comment: 30000 sq. ft., 3 floors, most recent
 use—barracks & mess facility, needs major
 rehab.

Bldg. 304
 Fort Totten
 Shore Road
 Bayside Co: Queens NY 11359-
 Landholding Agency: Army
 Property Number: 219012570
 Status: Unutilized
 Comment: 9610 sq. ft., 3 floors, most recent
 use—hospital, needs major rehab/utilities
 disconnected.

Bldg. 211
 Fort Totten
 211 Totten Avenue
 Bayside Co: Queens NY 11359-
 Landholding Agency: Army
 Property Number: 219012573
 Status: Unutilized
 Comment: 6329 sq. ft., 3 floors, most recent
 use—family housing, needs major rehab,
 utilities disconnected.

Bldg. 332
 Fort Totten
 Theater Road
 Bayside Co: Queens NY 11359-
 Landholding Agency: Army
 Property Number: 219012578
 Status: Unutilized
 Comment: 6288 sq. ft., 1 floor, most recent
 use—theater w/stage, needs major rehab,
 utilities disconnected.

Bldg. 504
 Fort Totten
 Ordnance Road
 Bayside Co: Queens NY 11359-
 Landholding Agency: Army
 Property Number: 219012580
 Status: Unutilized
 Comment: 490 sq. ft., 1 floor, most recent
 use—storage, no utilities, needs major
 rehab.

Bldg. 322
 Fort Totten
 322 Story Avenue
 Bayside Co: Queens NY 11359-
 Landholding Agency: Army
 Property Number: 219012583
 Status: Unutilized
 Comment: 30000 sq. ft., 3 floors, most recent
 use—barracks, mess & administration,
 utilities disconnected, needs rehab.

Bldg. 326
 Fort Totten
 326 Pratt Avenue
 Bayside Co: Queens NY 11359-
 Landholding Agency: Army
 Property Number: 219012586
 Status: Unutilized
 Comment: 6000 sq. ft., 2 floors, most recent
 use—storage, offices & residential, utilities
 disconnected/needs rehab.

Bldg. 627
 U. S. Military Academy—West Point
 Pitcher Road, North Dock
 Highland Co: Orange NY 10996-1592
 Landholding Agency: Army
 Property Number: 219030185
 Status: Unutilized
 Comment: 23185 sq. ft.; 1 story wood frame;
 needs rehab; presence of asbestos; most
 recent use—storage warehouse.

Oklahoma

Bldg. T-2531, Fort Sill
 2531 Sheridan Road
 Lawton Co: Comanche OK 73503-5100
 Landholding Agency: Army
 Property Number: 219011248
 Status: Unutilized
 Comment: 1990 sq. ft.; structurally unsound;
 asbestos; wood frame, 2 floors, WWII bldg.

Bldgs. T-2545, T-2546, T-2548
 Fort Sill
 2544 Sheridan Road
 Lawton Co: Comanche OK 73503-5100
 Landholding Agency: Army
 Property Numbers: 219011255, 219011257,
 219011260
 Status: Unutilized
 Comment: 1994 sq. ft. each; asbestos; wood
 frame; 2 floors, no operating sanitary
 facilities; most recent use—barracks.

Bldg. T-2564
 Fort Sill
 2564 Currie Road
 Lawton Co: Comanche OK 73503-5100
 Landholding Agency: Army
 Property Number: 219011264
 Status: Unutilized
 Comment: 1165 sq. ft.; asbestos; wood frame;
 1 floor; most recent use—administrative/
 supply.

Bldg. T-2565
 Fort Sill
 2565 Currie Road
 Lawton Co: Comanche OK 73503-5100
 Landholding Agency: Army
 Property Number: 219011266
 Status: Unutilized
 Comment: 1196 sq. ft.; asbestos; wood frame;
 1 floor; most recent use—administrative/
 supply.

Bldg. T-2566
 Fort Sill
 2566 Currie Road
 Lawton Co: Comanche OK 73503-5100
 Landholding Agency: Army
 Property Number: 219011267
 Status: Unutilized
 Comment: 1179 sq. ft.; asbestos; wood frame;
 1 floor; most recent use—administrative/
 supply.

Bldg. T-2601
 Fort Sill
 2601 Ringold Road
 Lawton Co: Comanche OK 73503-5100
 Landholding Agency: Army
 Property Number: 219011272
 Status: Unutilized
 Comment: 1600 sq. ft.; 2 story wood frame;
 possible asbestos; possible structure
 deficiencies.

Bldg. T-2606
 Fort Sill
 2606 Currie Road

Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219011273
Status: Unutilized
Comment: 2722 sq. ft.; possible asbestos, one floor wood frame; most recent use—headquarters bldg.

Bldg. T-2613
Fort Sill
2613 Ringold Road
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219011276
Status: Unutilized
Comment: 4800 sq. ft.; possible asbestos, wood frame, 2 floors; most recent use—barracks.

Bldgs. T-2614, T-2615
Fort Sill
2614 Ringold Road
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Numbers: 219011278, 219011279
Status: Unutilized
Comment: 3778 sq. ft. each; possible asbestos; wood frame; two floors; most recent use—barracks.

Bldgs. T-2620
Fort Sill
2620 Ringold Road
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Numbers: 219011281
Status: Unutilized
Comment: 2370 sq. ft. each; 2 story wood frame; possible asbestos; possible structure deficiencies.

Bldg. T-2623
Fort Sill
2623 Ringold Road
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219011287
Status: Unutilized
Comment: 2400 sq. ft.; 2 story wood frame; asbestos; possible structure deficiencies.

Bldg. T-2624
Fort Sill
2624 Miner Road
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219011288
Status: Unutilized
Comment: 3738 sq. ft.; possible asbestos, wood frame; 2 floors; most recent use—day room.

Bldgs. T-2625, T-2628
Fort Sill
2625 Ringold Road
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Numbers: 219011289, 219011294
Status: Unutilized
Comment: 3664 sq. ft. each; wood frame; 2 floors; possible asbestos; most recent use—barracks.

Bldgs. T-2629 thru T-2631
Fort Sill
2629 Ringold Road
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Numbers: 219011296, 219011298, 219011299
Status: Unutilized

Comment: 3664 sq. ft. each; wood frame; 2 floors; possible asbestos, most recent use—barracks.

Bldg. T-2650
Fort Sill
250 Ringold Road
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219011301
Status: Unutilized
Comment: 4021 sq. ft.; 2 story; possible asbestos; possible structure deficiencies.

Bldg. T-2931
Fort Sill
2931 Currie Road
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219011313
Status: Unutilized
Comment: 435 sq. ft.; structurally unsound; asbestos; wood frame; 1 floor.

Bldg. T-3507
Fort Sill
3507 Sheridan Road
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219011315
Status: Unutilized
Comment: 2904 sq. ft.; possible asbestos; potential heavy metal contamination; wood frame; most recent use—chapel.

Bldg. T-3508
Fort Sill
3508 Sheridan Road
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219011316
Status: Unutilized
Comment: 1964 sq. ft.; structurally unsound; asbestos; wood frame; 1 floor, WWII bldg.

Bldg. T-3514
Fort Sill
3514 Sheridan Road
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219011322
Status: Unutilized
Comment: 1917 sq. ft.; possible asbestos; wood frame; most recent use—administrative.

Bldg. T-3516
Fort Sill
3516 Packard Road
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219011324
Status: Unutilized
Comment: 1495 sq. ft.; possible asbestos; wood frame; most recent use—administrative.

Bldg. T-3562
Fort Sill
3562 Packard Street
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219011334
Status: Unutilized
Comment: 1027 sq. ft.; possible asbestos; wood frame; most recent use—storage.

Bldg. T-3767
Fort Sill
3767 Hartell Road
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army

Property Number: 219011339
Status: Unutilized
Comment: 2469 sq. ft.; structurally unsound; possible asbestos; one story wood frame.

Bldgs. T-3779, T-3780
Fort Sill
3779 Currie Road
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Numbers: 219011343, 219011344
Status: Unutilized
Comment: 4720 sq. ft. each; possible asbestos, wood frame, 2 floors; most recent use—barracks.

Bldg. T-4363
Fort Sill
4363 McKee Street
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219011348
Status: Unutilized
Comment: 1947 sq. ft.; some utilities; possible structural deficiencies; possible asbestos.

Bldg. T-4521
Fort Sill
4521 Wilson Road
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219011352
Status: Unutilized
Comment: 3833 sq. ft., 1 floor, wood frame, asbestos, most recent use—classroom.

Bldg. T-4375
Fort Sill
4375 Bragg Road
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219011356
Status: Unutilized
Comment: 1102 sq. ft.; structurally unsound; possible asbestos.

Bldg. T-4525
Fort Sill
4524 Wilson Road
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219011363
Status: Unutilized
Comment: 1636 sq. ft., 1 floor, asbestos, wood frame, most recent use—exchange service outlet.

Bldg. T-4526
Fort Sill
4526 Wilson Road
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219011366
Status: Unutilized
Comment: 3833 sq. ft., 1 floor, asbestos, wood frame, most recent use—recreation building.

Bldg. T-4387
Fort Sill
4387 Bragg Road
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219011367
Status: Unutilized
Comment: 1968 sq. ft.; no sanitary facilities; structurally unsound; possible asbestos; two story wood frame.

Bldg. T-4502
Fort Sill
4502 Wilson Road

Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219011376
Status: Unutilized
Comment: 2812 sq. ft.; structurally unsound;
possible asbestos; one story wood frame.

Bldg. T-4535
Fort Sill
4535 Hartell Blvd.
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219011384
Status: Unutilized
Comment: 2816 sq. ft., 1 story wood frame,
possible asbestos, possible structural
deficiencies.

Bldg. T-4510
Fort Sill
4510 Wilson Road
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219011386
Status: Unutilized
Comment: 3006 sq. ft.; asbestos; wood frame;
1 floor; most recent use—medical storage.

Bldg. T-4513
Fort Sill
4513 Wilson Road
Lawton Co: Comanche OK 13503-5100
Landholding Agency: Army
Property Number: 219011389
Status: Unutilized
Comment: 3842 sq. ft.; asbestos; wood frame;
1 floor; most recent use—classroom.

Bldg. T-4556
Fort Sill
4556 Hartell Blvd.
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219011401
Status: Unutilized
Comment: 2308 sq. ft.; possible asbestos;
possible structural deficiencies; one story
wood frame.

Bldg. T-4720
Fort Sill
4720 Hartell Blvd.
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219011405
Status: Unutilized
Comment: 13225 sq. ft.; visual asbestos; wood
frame; 2 floors; most recent use—recreation
bldg.

Bldg. T-4550
Fort Sill
4550 Hartell Blvd.
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219013795
Status: Unutilized
Comment: 2750 sq. ft.; 1 story wood frame;
possible asbestos; most recent use—
headquarters bldg.

Bldg. T-836
Fort Sill
Corner of Macomb Road and Burrell Road
Lawton Co: Comanche OK 73503-
Landholding Agency: Army
Property Number: 219014328
Status: Unutilized
Comment: 1341 sq. ft.; 1 story wood frame;
most recent use—storage; possible
asbestos.

Bldg. T-4919

Fort Sill
4919 Post Road
Lawton Co: Comanche OK 73503-
Landholding Agency: Army
Property Number: 219014842
Status: Unutilized
Comment: 603 sq. ft.; 1 story mobile home
trailer; possible asbestos; needs rehab.

Bldg. T-4541
Fort Sill
4541 Hartell Blvd.
Lawton Co: Comanche OK 73503-
Landholding Agency: Army
Property Number: 219014935
Status: Unutilized
Comment: 2340 sq. ft.; 1 story wood frame;
needs rehab; possible asbestos; most
recent use—administration.

Bldg. T-4523
Fort Sill
4523 Wilson Road
Lawton Co: Comanche OK 73503-
Landholding Agency: Army
Property Number: 219014933
Status: Unutilized
Comment: 1639 sq. ft., 1 story wood frame,
needs rehab, possible asbestos, most
recent use—storage.

Bldg. S-701
Fort Sill
701 Randolph Road
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219030183
Status: Unutilized
Comment: 19903 sq. ft.; steel/wood frame; 1
story; needs rehab; possible asbestos; most
recent use—general instruction building.

South Carolina

Bldg. 5405
Jackson Blvd.
Ft. Jackson Co: Richland SC 29207-
Landholding Agency: Army
Property Number: 219012563
Status: Unutilized
Comment: 4764 sq. ft.; 1 floor; wood frame;
needs rehab.

Bldg. 2438, Fort Jackson
Ft. Jackson Co: Richland SC 29207-
Landholding Agency: Army
Property Number: 219140003
Status: Unutilized
Comment: 3779 sq. ft., 1 story wood frame,
off-site removal only, needs rehab, most
recent use—storage.

Bldg. 8562, Fort Jackson
Ft. Jackson Co: Richland SC 29207-
Landholding Agency: Army
Property Number: 219140004
Status: Unutilized
Comment: 992 sq. ft., 1 story wood frame, off-
site removal only, needs rehab, most recent
use—administrative.

Bldgs. 8564, 8568, 9618
Fort Jackson
Ft. Jackson Co: Richland SC 29207-
Landholding Agency: Army
Property Numbers: 219140005-219140006,
219140013
Status: Underutilized
Comment: 4720 sq. ft., 2 story wood frame,
off-site removal only, needs rehab, most
recent use—billets/travel office/storage.

Bldg. 8571, Fort Jackson

Ft. Jackson Co: Richland SC 29207-
Landholding Agency: Army
Property Number: 219140007
Status: Underutilized
Comment: 3196 sq. ft., 1 story wood frame,
off-site removal only, needs rehab, most
recent use—storage.

Bldg. 8572, Fort Jackson
Ft. Jackson Co: Richland SC 29207-
Landholding Agency: Army
Property Number: 219140008
Status: Underutilized
Comment: 2284 sq. ft., 1 story wood frame,
off-site removal only, needs rehab, most
recent use—administrative.

Bldg. 8573, Fort Jackson
Ft. Jackson Co: Richland SC 29207-
Landholding Agency: Army
Property Number: 219140009
Status: Unutilized
Comment: 720 sq. ft., 1 story wood frame, off-
site removal only, needs rehab, most recent
use—open sided waiting shelter.

Bldg. 8575, Fort Jackson
Ft. Jackson Co: Richland SC 29207-
Landholding Agency: Army
Property Number: 219140010
Status: Unutilized
Comment: 1029 sq. ft., 1 story wood frame,
off-site removal only, needs rehab, most
recent use—open sided waiting shelter.

Bldg. 8576, Fort Jackson
Ft. Jackson Co: Richland SC 29207-
Landholding Agency: Army
Property Number: 219140011
Status: Unutilized
Comment: 3888 sq. ft., 1 story wood frame,
off-site removal only, needs rehab, most
recent use—open sided waiting shelter.

Bldg. 9530, Fort Jackson
Ft. Jackson Co: Richland SC 29207-
Landholding Agency: Army
Property Number: 219140012
Status: Underutilized
Comment: 5782 sq. ft., 1 story wood frame,
off-site removal only, needs rehab, most
recent use—administrative.

Bldg. 9636, Fort Jackson
Ft. Jackson Co: Richland SC 29207-
Landholding Agency: Army
Property Number: 219140014
Status: Underutilized
Comment: 1170 sq. ft., 1 story wood frame,
off-site removal only, needs rehab, most
recent use—storage.

Tennessee

Milan Army Ammunition Plant
Area Q—Housing Area Q-27, Q-7, Q-12
Milan Co: Carroll TN 38358-
Landholding Agency: Army
Property Numbers: 219010559, 219010605,
219010609

Status: Underutilized
Comment: Two story; wood frame;
temporarily empty due to personnel
rotation

Robert Joel Ridings
US Army Reserve Center
920 Cherokee Avenue
Nashville Co: Davidson TN 37207-
Landholding Agency: Army
Property Number: 219011667
Status: Excess

Comment: 40,000 sq. ft.; 3.67 acres; concrete block; utilities disconnected; site vandalized.

Area Q—Housing Area—Q-20, Q-21, Q-26
Milan Army Ammunition Plant
Milan Co: Carroll TN 38358-
Landholding Agency: Army
Property Numbers: 219014790, 219110032-
219110033

Status: Underutilized

Comment: 2506 sq. ft. each; 2 story wood frame residence.

Area Q—Housing Area—Q-28, Q-9, Q-4, Q-15, Q-19

Milan Army Ammunition Plant

Milan Co: Carroll TN 38358-

Landholding Agency: Army

Property Numbers: 219110034, 219110102, 219120272, 219120273, 219120274

Status: Underutilized

Comment: 2024 sq. ft. each; 2 story wood frame residence.

Texas

Bldg. T-227

Fort Sam Houston

San Antonio Co: Bexar TX 78234-

Landholding Agency: Army

Property Number: 219014275

Status: Excess

Comment: 2987 sq. ft.; 1 story wood structure; major rehab needed.

Bldgs. 1189, 1192, T-1193

Fort Sam Houston

San Antonio Co: Bexar TX 78234-

Landholding Agency: Army

Property Numbers: 219014276-219014277, 219014280

Status: Excess

Comment: 9190 sq. ft. each; 1 story wood structure; needs major rehabilitation.

Bldgs. T-4001, T-4004

Fort Sam Houston

San Antonio Co: Bexar TX 78234-

Landholding Agency: Army

Property Numbers: 219014278, 219014279

Status: Underutilized

Comment: 48,000 sq. ft. each; 2 story wood frame building with metal siding; needs rehab; possible asbestos.

Bldg. 2

Saginaw Army Aircraft Plant

Saginaw Co: Tarrant TX 76070-

Landholding Agency: Army

Property Number: 219014815

Status: Unutilized

Comment: 94,606 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 4

Saginaw Army Aircraft Plant

Saginaw Co: Tarrant TX 76070-

Landholding Agency: Army

Property Number: 219014816

Status: Unutilized

Comment: 1350 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 17

Saginaw Army Aircraft Plant

Saginaw Co: Tarrant TX 76070-

Landholding Agency: Army

Property Number: 219014817

Status: Unutilized

Comment: 68 sq. ft.; wood and metal frame; subject to sewer pipeline easement; needs rehab; most recent use—guard house.

Bldg. 29

Saginaw Army Aircraft Plant

Saginaw Co: Tarrant TX 76070-

Landholding Agency: Army

Property Number: 219014818

Status: Unutilized

Comment: 5028 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 30

Saginaw Army Aircraft Plant

Saginaw Co: Tarrant TX 76070-

Landholding Agency: Army

Property Number: 219014819

Status: Unutilized

Comment: 5323 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 18

Saginaw Army Aircraft Plant

Saginaw Co: Tarrant TX 76070-

Landholding Agency: Army

Property Number: 219014820

Status: Unutilized

Comment: 9560 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 6

Saginaw Army Aircraft Plant

Saginaw Co: Tarrant TX 76070-

Landholding Agency: Army

Property Number: 219014821

Status: Unutilized

Comment: 1258 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 7

Saginaw Army Aircraft Plant

Saginaw Co: Tarrant TX 76070-

Landholding Agency: Army

Property Number: 219014822

Status: Unutilized

Comment: 508 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 8

Saginaw Army Aircraft Plant

Saginaw Co: Tarrant TX 76070-

Landholding Agency: Army

Property Number: 219014824

Status: Unutilized

Comment: 171 sq. ft.; 2 story wood and metal frame; subject to sewer pipeline easement; needs rehab; most recent use—watch tower.

Bldg. 16

Saginaw Army Aircraft Plant

Saginaw Co: Tarrant TX 76070-

Landholding Agency: Army

Property Number: 219014825

Status: Unutilized

Comment: 17263 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 19

Saginaw Army Aircraft Plant

Saginaw Co: Tarrant TX 76070-

Landholding Agency: Army

Property Number: 219014826

Status: Unutilized

Comment: 25399 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab

Bldg. 31

Saginaw Army Aircraft Plant

Saginaw Co: Tarrant TX 76070-

Landholding Agency: Army

Property Number: 219014827

Status: Unutilized

Comment: 1392 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 9

Saginaw Army Aircraft Plant

Saginaw Co: Tarrant TX 76070-

Landholding Agency: Army

Property Number: 219014828

Status: Unutilized

Comment: 244 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 25

Saginaw Army Aircraft Plant

Saginaw Co: Tarrant TX 76070-

Landholding Agency: Army

Property Number: 219014829

Status: Unutilized

Comment: 1320 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab; most recent use—fire house.

Bldg. 10

Saginaw Army Aircraft Plant

Saginaw Co: Tarrant TX 76070-

Landholding Agency: Army

Property Number: 219014830

Status: Unutilized

Comment: 354 sq. ft.; 2 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 26

Saginaw Army Aircraft Plant

Saginaw Co: Tarrant TX 76070-

Landholding Agency: Army

Property Number: 219014831

Status: Unutilized

Comment: 3518 sq. ft.; 1 story-wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 21

Saginaw Army Aircraft Plant

Saginaw Co: Tarrant TX 76070-

Landholding Agency: Army

Property Number: 219014832

Status: Unutilized

Comment: 65 sq. ft.; wood and metal frame; subject to sewer pipeline easement; needs rehab; most recent use—guard house.

Bldg. 22

Saginaw Army Aircraft Plant

Saginaw Co: Tarrant TX 76070-

Landholding Agency: Army

Property Number: 219014833

Status: Unutilized

Comment: 50581 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 27

Saginaw Army Aircraft Plant

Saginaw Co: Tarrant TX 76070-

Landholding Agency: Army

Property Number: 219014834

Status: Unutilized

Comment: 228 sq. ft.; 2 story wood and metal frame; subject to sewer pipeline easement;

needs rehab; most recent use—control tower.

Bldg. 32

Saginaw Army Aircraft Plant

Saginaw Co: Tarrant TX 76070-

Landholding Agency: Army

Property Number: 219014835

Status: Unutilized

Comment: 19546 sq. ft.; 1 story wood and metal frame, subject to sewer pipeline easement; needs rehab.

T-4013

Fort Sam Houston

San Antonio Co: Bexar TX 78234-

Landholding Agency: Army

Property Number: 219030001

Status: Underutilized

Comment: 64067 sq. ft.; 1 story wood frame; needs rehab; limited utilities.

Bldg. 4203

Fort Bliss

4203 Ellerthorpe Avenue

El Paso Co: El Paso TX 79916-

Landholding Agency: Army

Property Number: 219110037

Status: Unutilized

Comment: 4200 net sq. ft.; one story wood frame; off-site use only; most recent use—bowling center.

Bldg. 4308—Fort Bliss, Tex.

4308 Link Road

El Paso Co: El Paso TX 79916-

Landholding Agency: Army

Property Number: 219120121

Status: Unutilized

Comment: 4106 sq. ft., one story wood frame; needs rehab; most recent use—skill development center; off-site use only.

Bldg. 4348—Fort Bliss, Tex.

4348 Leo Drive

El Paso Co: El Paso TX 79916-

Landholding Agency: Army

Property Number: 219120122

Status: Unutilized

Comment: 1829 sq. ft., one story wood frame; most recent use—vehicle maintenance shop; off-site use only.

Bldg. 4349—Fort Bliss, Tex.

4349 Leo Drive

El Paso Co: El Paso TX 79916-

Landholding Agency: Army

Property Number: 219120123

Status: Unutilized

Comment: 1829 sq. ft., one story wood frame; most recent use—vehicle maintenance shop; off-site use only.

Bldgs. 4820, 4868, 4877

Fort Bliss

El Paso Co: El Paso TX 79916-

Landholding Agency: Army

Property Number: 219120133, 219120140,

219120142

Status: Unutilized

Comment: 873 net sq. ft. each, one story; most recent use—storage; off-site use only.

Bldgs. 4867, 4875, 4925

Fort Bliss, Tex.

El Paso Co: El Paso TX 79916-

Landholding Agency: Army

Property Number: 219120139, 219120141,

219120144

Status: Unutilized

Comment: 2169 sq. ft. each, one story wood frame; most recent use—general storage; off-site use only.

Bldg. 4921—Fort Bliss, Tex.

4921 Ketcham Avenue

El Paso Co: El Paso TX 79916-

Landholding Agency: Army

Property Number: 219120143

Status: Unutilized

Comment: 1381 sq. ft., one story wood frame; possible friable asbestos; most recent use—Day room; off-site use only.

Bldg. 4938—Fort Bliss, Tex.

4938 Burgin Street

El Paso Co: El Paso TX 79916-

Landholding Agency: Army

Property Number: 219120145

Status: Unutilized

Comment: 1770 sq. ft., one story wood frame; possible friable asbestos; most recent use—storage; off-site use only; limited utilities.

Bldg. 4940—Fort Bliss, Tex.

4940 Burgin Street

El Paso Co: El Paso TX 79916-

Landholding Agency: Army

Property Number: 219120146

Status: Unutilized

Comment: 1792 sq. ft., one story wood frame; possible friable asbestos; most recent use—storage; off-site use only; limited utilities.

Bldg. 11190—Fort Bliss, Tex.

11190 SGT E. Churchill Street

El Paso Co: El Paso TX 79916-

Landholding Agency: Army

Property Number: 219120147

Status: Unutilized

Comment: 600 sq. ft., one story wood frame; limited utilities; needs rehab; most recent use—storage; off-site use only.

Bldg. 11191—Fort Bliss, Tex.

11191 SGT E. Churchill Street

El Paso Co: El Paso TX 79916-

Landholding Agency: Army

Property Number: 219120148

Status: Unutilized

Comment: 1140 sq. ft., one story wood frame; limited utilities; most recent use—storage; off-site use only.

Harlingen USARC

1920 East Washington

Harlingen Co: Cameron TX 78550-

Landholding Agency: Army

Property Number: 219120304

Status: Excess

Comment: 19440 sq. ft., 1 story brick, needs rehab, with approx. 8 acres including parking areas, most recent use—Army reserve training center.

Bldg. 2208, Fort Hood

Headquarters Avenue

Ft. Hood Co: Coryell, TX 76544

Landholding Agency: Army

Property Number: 219120283

Status: Unutilized

Comment: 4779 sq. ft., 2 story wood structure, needs rehab, most recent use—photo lab.

Virginia

Bldgs. T413-T415, T418, T421-T423, T426-

T428, T431-T433, T441-T443, T446-T448,

T1724, T1726-T1727, T1876-T1877, T2213,

T2413-T2415, T2418-T2424, T2427-T2430,

T2437-T2439, T2442-T2448, T2451-T2453,

T2615-T2616, T1363-T1364, T2208, T2209,

T1349-T1351, T1354-T1355, T3042-T3048,

T3051-T3054

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Numbers: 219010006-219010079

Status: Unutilized

Comment: 4292 sq. ft. each; Selected periods are reserved for military/training exercises.

Bldgs. T435-T438, T440, T1718, T2228, 1662, T2411-T2412, 2431, T2433-T2434, T2455-T2457, T2612-T2614, T2633, T2635-T2636, T2638, T2657, T2659, T1367, T1886, 1887, 2205, 2207, 2227, 2228, 2611, 2632, 2634-2635, 2637, 2656, 3016-3017, 3031, 3032-3036, T412, T424-T425, T434, T444, T445, T1880, 2416, T2425, 2416, T2425, T2426, 2440-2441, 2449-2450, 2618, 2619, 2627, 2628, 2642, 2643, 2652, 1357, 1358, 2211, 2220-2221, 2626-2627, 2641-2642, 2850-2851, 3010, 3012, 3025, 3040-3041, 3049, 3050, 3057

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Numbers: 219010080-219010104,

219011002, 219011004, 219011005-219011009, 219011011, 219011013, 219011015-219011016, 219011018-219011019, 219011021-219011022, 219011024-219011026, 219011028-219011030, 219011060, 219011064-219011065, 219011067-219011068, 219011070-219011071, 219011073-219011074, 219011076-219011077, 219011079-219011081, 219011083, 219011085-219011086, 219011088-219011089, 219011091, 219011093, 219011096-219011103, 219011105, 219011107, 219011114, 219011118, 219011121, 219011140, 219011143, 219011145-219011147, 219011031

Status: Unutilized

Comment: 2900 sq. ft. each; selected periods are reserved for military/training exercises.

Bldg. 1678

Fort Pickett

Blackstone Co: Nottoway VA 23930-

Landholding Agency: Army

Property Number: 219010971

Status: Underutilized

Comment: 3300 sq. ft.; Selected periods are reserved for military/training exercises; most recent use—hdqts. bldg.

Bldgs. 1663, 1664, T2617, T2620-T2626, T2629-T2632, 2639, T2640, T2641, 2644-2646, 2647-2648, 2650, 2614, 2615, T2652-T2653, T2654-T2655

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Numbers: 219010972, 219010976,

219010979, 219010982, 219010984, 219010987, 219010990, 219010993, 219010995, 219010998, 219011000, 219011003, 219011010, 219011012, 219011014, 219011017, 219011020, 219011023, 219011027, 219011032, 219011033-219011036, 219011038, 219011040, 219011043, 219011046, 219011047

Status: Underutilized

Comment: 4292 sq. ft. each; selected periods are reserved for military/training exercises, most recent use—barracks.

Bldg. 1677

Fort Pickett

Blackstone Co: Nottoway VA 23930-

Landholding Agency: Army

Property Number: 219010973

Status: Underutilized

Comment: 3300 sq. ft.; selected periods reserved for military/training exercises; most recent use—hdqts. bldg.

Bldgs. 1666, 1687, 1696

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Numbers: 219010974-219010975, 219010977

Status: Underutilized

Comment: 1300 sq. ft. each; selected periods are reserved for military/ training exercises; most recent use—hdqts. bldgs.

Bldg. 1667

Fort Pickett

Blackstone Co: Nottoway VA 23930-

Landholding Agency: Army

Property Number: 219010978

Status: Underutilized

Comment: 11000 sq. ft.; most recent use—mess hall; selected periods are reserved for military/ training exercises.

Bldg. 1686

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Number: 219010980

Status: Underutilized

Comment: 11000 sq. ft.; most recent use—mess hall; selected periods are reserved for military/ training exercises.

Bldg. 1690

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Number: 219010981

Status: Underutilized

Comment: 2300 sq. ft.; selected periods are reserved for military/ training exercises; most recent use—storage.

Bldg. 2810

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Number: 219010983

Status: Underutilized

Comment: 3500 sq. ft.; most recent use—recreation; selected periods are reserved for military/ training exercises.

Bldgs. 2609, 2801

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Numbers: 219010985-219010986

Status: Underutilized

Comment: 1200 sq. ft. each; most recent use—recreation; selected periods are reserved for military/ training exercises.

Bldgs. 2602, 2808

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Numbers: 219010988-219010989

Status: Underutilized

Comment: 2200 sq. ft. each; most recent use—recreation bldg; selected periods are reserved for military/ training exercises.

Bldgs. 1315, 1316

Fort Pickett

Blackstone Co: Nottoway VA 23930-

Landholding Agency: Army

Property Numbers: 219010991-219010992

Status: Underutilized

Comment: 4038 sq. ft. each; most recent use—housing; selected periods are reserved for military/ training exercises.

Bldgs. T1348, T1365, 1309, 2610

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Numbers: 219010994, 219010996-219010997, 219010999

Status: Underutilized

Comment: 2256 sq. ft. each; most recent use—housing; selected periods are reserved for military/ training exercises.

Bldg. T3055

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Number: 219011001

Status: Underutilized

Comment: 2307 sq. ft.; most recent use—recreation facility; selected periods are reserved for military/ training exercises.

Bldgs. 1662, 1665, 1688, 1689, 1691

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Numbers: 219011037, 219011039, 219011041-219011042, 219011044

Status: Underutilized

Comment: 2500 sq. ft. each; selected periods reserved for military/ training exercises; most recent use—hdqts. bldg.

Bldgs. 2402, 2869, T2410, 3002, 3005

Fort Pickett

Blackstone Co: Nottoway VA 23930-

Landholding Agency: Army

Property Numbers: 219011045, 219011048-219011049, 219011051-219011052

Status: Underutilized

Comment: 1176 sq. ft. each; selected periods of time reserved for military/ training exercises; most recent use—hdqts. bldg.

Bldgs. 1897, 2229, 2238-2239, 2373, 2462-2463, 2671, 2672-2673, 2864, 2865, 3061-3063

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Numbers: 219011050, 219011053-219011059, 219011061-219011063, 219011066, 219011069, 219011072, 219011075

Status: Underutilized

Comment: 2761 sq. ft. each; most recent use—veh. maint. shop; selected periods are reserved for military/ training exercises.

Bldgs. 1725, 2608, 2651, 2803, 2817

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Numbers: 219011078, 219011082, 219011087, 219011090

Status: Underutilized

Comment: 2300 sq. ft. each; most recent use—dining fac; selected periods are reserved for military/ training exercises.

Bldgs. 1352, 3026

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Numbers: 219011092, 219011095

Status: Underutilized

Comment: 3500 sq. ft. each; most recent—dining fac; selected periods are reserved for military/ training exercises.

Bldg. T-6015

U.S. Army Logistics Center & Fort Lee

Shop Road

Fort Lee Co: Prince George VA 23801-

Landholding Agency: Army

Property Number: 219012376

Status: Unutilized

Comment: 2124 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. T-6018

U.S. Army Logistics Center and Fort Lee

Shop Road

Fort Lee Co: Prince George VA 23801-

Landholding Agency: Army

Property Number: 219012396

Status: Unutilized

Comment: 1575 sq. ft., 1 floor, no utilities, possible asbestos, needs rehab, off site use only.

Bldg. 227

Fort Belvoir

OPS General Purpose

Fort Belvoir Co: Fairfax VA 22060-

Location: Off Middleton Road

Landholding Agency: Army

Property Number: 219012555

Status: Unutilized

Comment: 900 sq. ft., 1 floor, most recent use—administration, needs major construction/ rehab.

Bldg. T-12054

U.S. Army Logistics Center and Fort Lee

Logistics Circle

Fort Lee Co: Prince George VA 23801-

Landholding Agency: Army

Property Number: 219030328

Status: Unutilized

Comment: 4095 sq. ft.; 1 story sheet metal; needs rehab; presence of asbestos; off-site use only.

Bldg. #43—Admin. Gen Purp Bldg.

Fort Myer

Washington Avenue

Fort Myer Co: Arlington VA 22211-

Landholding Agency: Army

Property Number: 219120100

Status: Unutilized

Comment: 1341 sq. ft., two story, brick/wood siding, needs major rehab, possible asbestos, off-site use only.

Bldg. 45, Fort Myer

Washington Avenue

Ft. Myer Co: Arlington VA 22211-

Landholding Agency: Army

Property Number: 219140034

Status: Unutilized

Comment: 2034 sq. ft., 2 story brick/wood residence, needs rehab, presence of asbestos, off-site use only.

Bldg. 586, Open Mess

Fort Story

Atlantic Avenue

Ft. Story Co: Princess Ann VA 23459-5000

Landholding Agency: Army

Property Number: 219210281

Status: Unutilized

Comment: 15919 sq. ft., 2 story wood structure, needs repair, possible asbestos, most recent use—NCO club.

Wisconsin

Bldgs. T-1058, T-01027-T-01030, T-01035-T-

01040, T-01044, T-01046-T-01053, T-01059,

T-01063, T-01069, T-01034, T-01041, T-

01057, T-01071-T-01080, T-01082-T-01084

Fort McCoy

Army Hospital Complex

Sparta Co: Monroe WI 54656-5000

Landholding Agency: Army

Property Numbers: 219013435, 219013471-219013480, 219013483, 219013485-219013493, 219013497, 219013502, 219013504-219013505, 219013519, 219013521-219013533

Status: Unutilized

Comment: 4829 sq. ft. each; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10122

Fort McCoy

Army Hospital Complex

Sparta Co: Monroe WI 54656-5000

Landholding Agency: Army

Property Number: 219013436

Status: Unutilized

Comment: 1900 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10123

Fort McCoy

Army Hospital Complex

Sparta Co: Monroe WI 54656-5000

Landholding Agency: Army

Property Number: 219013437

Status: Unutilized

Comment: 2405 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10135

Fort McCoy

Army Hospital Complex

Sparta Co: Monroe WI 54656-5000

Landholding Agency: Army

Property Number: 219013438

Status: Unutilized

Comment: 97 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings; most recent use—power plant.

Bldg. T-10136

Fort McCoy

Army Hospital Complex

Sparta Co: Monroe WI 54656-5000

Landholding Agency: Army

Property Number: 219013439

Status: Unutilized

Comment: 96 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings; most recent use—power plant.

Bldg. T-10127

Fort McCoy

Army Hospital Complex

Sparta Co: Monroe WI 54656-5000

Landholding Agency: Army

Property Number: 219013440

Status: Unutilized

Comment: 1148 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. P-10119

Fort McCoy

Army Hospital Complex

Sparta Co: Monroe WI 54656-5000

Landholding Agency: Army

Property Number: 219013441

Status: Unutilized

Comment: 215 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. P-10137

Fort McCoy

Army Hospital Complex

Sparta Co: Monroe WI 54656-5000

Landholding Agency: Army

Property Number: 219013442

Status: Unutilized

Comment: 192 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings; most recent use—power plant.

Bldgs. T-01088-T-01089, T-01090-T-01093, T-01094-T-01097, T-01014

Fort McCoy

Army Hospital Complex

Sparta Co: Monroe WI 54656-5000

Landholding Agency: Army

Property Numbers: 219013444-219013445,

219013446-219013449, 219013452-219013455, 219013457

Status: Unutilized

Comment: 5295 sq. ft. each; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10118

Fort McCoy

Army Hospital Complex

Sparta Co: Monroe WI 54656-5000

Landholding Agency: Army

Property Number: 219013450

Status: Unutilized

Comment: 1250 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10120

Fort McCoy

Army Hospital Complex

Sparta Co: Monroe WI 54656-5000

Landholding Agency: Army

Property Number: 219013451

Status: Unutilized

Comment: 1250 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10113

Fort McCoy

Army Hospital Complex

Sparta Co: Monroe WI 54656-5000

Landholding Agency: Army

Property Number: 219013456

Status: Unutilized

Comment: 2393 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10121

Fort McCoy

Army Hospital Complex

Sparta Co: Monroe WI 54656-5000

Landholding Agency: Army

Property Number: 219013458

Status: Unutilized

Comment: 506 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldgs. T-10100-T-10103, T-10105, T-10107, T-10108

Fort McCoy

Army Hospital Complex

Sparta Co: Monroe WI 54656-5000

Landholding Agency: Army

Property Numbers: 219013459-219013462,

219013463, 219013465-219013466

Status: Unutilized

Comment: 3944 sq. ft. each; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10106

Fort McCoy

Army Hospital Complex

Sparta Co: Monroe WI 54656-5000

Landholding Agency: Army

Property Number: 219013464

Status: Unutilized

Comment: 4105 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10124

Fort McCoy

Army Hospital Complex

Sparta Co: Monroe WI 54656-5000

Landholding Agency: Army

Property Number: 219013467

Status: Unutilized

Comment: 3115 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldgs. T-10125-T10126

Fort McCoy

Army Hospital Complex

Sparta Co: Monroe WI 54656-5000

Landholding Agency: Army

Property Numbers: 219013468-219013469

Status: Unutilized

Comment: 3590 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10110

Fort McCoy

Army Hospital Complex

Sparta Co: Monroe WI 54656-5000

Landholding Agency: Army

Property Number: 219013470

Status: Unutilized

Comment: 2548 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings; most recent use—vehicle storage.

Bldgs. T-01042, T-01043, T-01045, T-01060-T-01062, T-01022-T-01025, T-01064, T-01085-T-01086

Fort McCoy

Army Hospital Complex

Sparta Co: Monroe WI 54656-5000

Landholding Agency: Army

Property Numbers: 219013481-219013482,

219013484, 219013494-219013496,

219013515-219013518, 219013520,

219013534-219013535

Status: Unutilized

Comment: 4686 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldgs. T-01065-T-01067

Fort McCoy

Army Hospital Complex

Sparta Co: Monroe WI 54656-5000

Landholding Agency: Army

Property Numbers: 219013498-219013500

Status: Unutilized

Comment: 4793 sq. ft. each; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01068

Fort McCoy

Army Hospital Complex

Sparta Co: Monroe WI 54656-5000

Landholding Agency: Army

Property Number: 219013501

Status: Unutilized

Comment: 4648 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01032

Fort McCoy

Army Hospital Complex

Sparta Co: Monroe WI 54656-5000

Landholding Agency: Army

Property Number: 219013503
Status: Unutilized
Comment: 5588 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01054
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656-5000
Landholding Agency: Army
Property Number: 219013506
Status: Unutilized
Comment: 4184 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01033
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656-5000
Landholding Agency: Army
Property Number: 219013507
Status: Unutilized
Comment: 5241 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01012
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656-5000
Landholding Agency: Army
Property Number: 219013508
Status: Unutilized
Comment: 1273 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings; most recent use—morgue.

Bldg. T-01031
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656-5000
Landholding Agency: Army
Property Number: 219013509
Status: Unutilized
Comment: 4813 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01002
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656-5000
Landholding Agency: Army
Property Number: 219013510
Status: Unutilized
Comment: 2573 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01010
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656-5000
Landholding Agency: Army
Property Number: 219013511
Status: Unutilized
Comment: 8799 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01009
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656-5000
Landholding Agency: Army
Property Number: 219013512
Status: Unutilized
Comment: 2000 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01098
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656-5000
Landholding Agency: Army
Property Number: 219013513
Status: Unutilized
Comment: 7133 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01099
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656-5000
Landholding Agency: Army
Property Number: 219013514
Status: Unutilized
Comment: 3294 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01003
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656-5000
Landholding Agency: Army
Property Number: 219013536
Status: Unutilized
Comment: 3366 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01001
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656-5000
Landholding Agency: Army
Property Number: 219013537
Status: Unutilized
Comment: 3350 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01005
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656-5000
Landholding Agency: Army
Property Number: 219013538
Status: Unutilized
Comment: 3253 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01020
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656-5000
Landholding Agency: Army
Property Number: 219013539
Status: Unutilized
Comment: 4150 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldgs. T-01070, T-01081
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656-5000
Landholding Agency: Army
Property Numbers: 219013540-219013541
Status: Unutilized
Comment: 7133 sq. ft. each; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldgs. T-01006-T01007, T-01009, T-01012-T-01013, T-01015-T-01018
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656-5000

Landholding Agency: Army
Property Numbers: 219013542-219013544, 219013546-219013551
Status: Unutilized
Comment: 5295 sq. ft. each; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01011
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656-3000
Landholding Agency: Army
Property Number: 219013545
Status: Unutilized
Comment: 4236 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01021
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656-5000
Landholding Agency: Army
Property Number: 219013552
Status: Unutilized
Comment: 4236 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldgs. T-01004, T-01019
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656-5000
Landholding Agency: Army
Property Numbers: 219013553-219013554
Status: Unutilized
Comment: 2815 sq. ft. each; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01056
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656-5000
Landholding Agency: Army
Property Number: 219013555
Status: Unutilized
Comment: 15657 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01000
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54656-5000
Landholding Agency: Army
Property Number: 219013556
Status: Unutilized
Comment: 3378 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings; most recent use—fire station.

Bldg. T-01055
Fort McCoy
Army Hospital Complex
Sparta Co: Monroe WI 54646-5000
Landholding Agency: Army
Property Number: 219013557
Status: Unutilized
Comment: 5471 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. 2112, Fort McCoy
US Highway 21
Ft. McCoy, WI, Monroe, Zip: 54656-
Landholding Agency: Army
Property Number: 219210310
Status: Underutilized

Comment: 582 sq. ft., 1 story, most recent use—ice house, needs repair.

Bldgs. 212-214, 218-220, 223-225, 228-231, 312-314, 318-320, 402-404, 407-410, 412-414, 418-420, 423-425, 428-429, 440-442

Fort McCoy
US Highway 21
Ft. McCoy, WI, Monroe, Zip: 54656-
Landholding Agency: Army
Property Numbers: 219210311-219210350
Status: Underutilized
Comment: 5310 sq. ft. ea., 2 story, possible asbestos, needs repair, selected periods reserved for military/training exercises, most recent use—housing.

Bldgs. 216-217, 226-227, 316-317, 405-406, 416-417

Fort McCoy
US Highway 21
Ft. McCoy, WI, Monroe, Zip: 54656-
Landholding Agency: Army
Property Numbers: 219210351-219210360
Status: Underutilized
Comment: 2950 sq. ft. ea., 1 story, possible asbestos, needs repair, selected periods reserved for military/training exercises, most recent use—mess halls.

Bldgs. 426-427, 439

Fort McCoy
US Highway 21
Ft. McCoy, WI, Monroe, Zip: 54656-
Landholding Agency: Army
Property Numbers: 219210361-219210382, 219210364
Status: Underutilized
Comment: 2350 sq. ft. ea., 1 story, possible asbestos, needs repair, selected periods reserved for military/training exercises, most recent use—mess halls.

Bldg. 438, Fort McCoy
US Highway 21
Ft. McCoy, WI, Monroe, Zip: 54656-
Landholding Agency: Army
Property Number: 219210363
Status: Underutilized
Comment: 2500 sq. ft., 1 story, possible asbestos, needs repair, selected periods reserved for military/training exercises, most recent use—mess hall.

Bldgs. 221-222, 232-233, 321, 333, 401, 411, 421, 433

Fort McCoy
US Highway 21
Ft. McCoy, WI, Monroe, Zip: 54656-
Landholding Agency: Army
Property Numbers: 219210365-219210368, 219210371-219210375, 219210378
Status: Underutilized
Comment: 3250 sq. ft. ea., 2 story, possible asbestos, needs repair, selected periods reserved for military/training exercises, most recent use—office/storage.

Bldg. 234, Fort McCoy
US Highway 21
Ft. McCoy, WI, Monroe, Zip: 54656-
Landholding Agency: Army
Property Number: 219210369
Status: Underutilized
Comment: 2682 sq. ft., 2 story, possible asbestos, needs repair, selected periods reserved for military/training exercises, most recent use—office/storage.

Bldg. 240, Fort McCoy
US Highway 21
Ft. McCoy, WI, Monroe, Zip: 54656-

Landholding Agency: Army
Property Number: 219210370
Status: Underutilized
Comment: 1750 sq. ft., 1 story, possible asbestos, needs repair, selected periods reserved for military/training exercises, most recent use—office.

Bldgs. 422, 432, 443

Fort McCoy
US Highway 21
Ft. McCoy, WI, Monroe, Zip: 54656-
Landholding Agency: Army
Property Numbers: 219210376-219210377, 219210380
Status: Underutilized
Comment: 2750 sq. ft. ea., 2 story, possible asbestos, needs repair, selected periods reserved for military/training exercises, most recent use—office/storage.

Bldgs. 434, 444

Fort McCoy
US Highway 21
Ft. McCoy, WI, Monroe, Zip: 54656-
Landholding Agency: Army
Property Numbers: 219210379, 219210381
Status: Underutilized
Comment: 2682 sq. ft. ea., 2 story, possible asbestos, needs repair, selected periods reserved for military/training exercises, most recent use—office/storage.

Land (by State)

Alaska

Eklutna Dispersal Site
Fort Richardson
Anchorage Co: Anchorage AK 99505-
Landholding Agency: Army
Property Number: 219014606
Status: Underutilized
Comment: 500 acres; parkland; environmentally protected.

Arkansas

Pine Bluff Arsenal
Pine Bluff Co: Jefferson AR 71602-9500
Location: 8 miles north of Pine Bluff on Highway 365
Landholding Agency: Army
Property Number: 219013841
Status: Unutilized
Comment: 1 acre and 3 acres; potential utilities; brush terrain; used as safety buffer; subject to easements.

Georgia

Land—Fort Gordon
Between Windermere Dr. & Wyevale Rd.
Augusta Co: Richmond GA 30909
Landholding Agency: Army
Property Number: 219210382
Status: Unutilized
Comment: Approximately .54 acres, entire parcel under easement to State Hwy. Department.

Illinois

Arlington USAR Center
1515 W. Central Road
Arlington Height Co: Cook IL 60005-
Landholding Agency: Army
Property Number: 219013921
Status: Underutilized
Comment: 6 acres; access subject to negotiation.

Kansas

Parcel 1
Fort Leavenworth
Combined Arms Center
Fort Leavenworth Co: Leavenworth KS 66027-5020
Landholding Agency: Army
Property Number: 219012333
Status: Underutilized
Comment: 14.4+ acres.

Parcel 3
Fort Leavenworth
Combined Arms Center
Fort Leavenworth Co: Leavenworth KS 66027-5020
Landholding Agency: Army
Property Number: 219012336
Status: Underutilized
Comment: 261+ acres; heavily forested; no access to a public right-of-way; selected periods are reserved for military/training exercises.

Parcel 4
Fort Leavenworth
Combined Arms Center
Fort Leavenworth Co: Leavenworth KS 66027-5020
Landholding Agency: Army
Property Number: 219012339
Status: Underutilized
Comment: 24.1+ acres; selected periods are reserved for military/training exercises; steep/wooded area.

Parcel 6
Fort Leavenworth
Combined Arms Center
Fort Leavenworth Co: Leavenworth KS 66027-5020
Location: Extreme north east corner of installation in Flood Plain of the Missouri River.
Landholding Agency: Army
Property Number: 219012340
Status: Underutilized
Comment: 1280 acres; selected periods are reserved for military/training exercises.

Parcel F
Fort Leavenworth
Combined Arms Center
Fort Leavenworth Co: Leavenworth KS 66027-5020
Landholding Agency: Army
Property Number: 219012552
Status: Unutilized
Comment: 33.4 acres; area is land locked; heavily wooded; periodic flooding.

Minnesota

Land
Twin Cities Army Ammunition Plant
New Brighton Co: Ramsey MN 55112-
Landholding Agency: Army
Property Number: 219120269
Status: Underutilized
Comment: Approx. 25 acres, possible contamination, secured area with alternate access.

Nevada

Parcel A
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415-

Location: At Foot of Eastern slope of Mount Grant in Wassuk Range & S.W. edge of Walker Lane
 Landholding Agency: Army
 Property Number: 219012049
 Status: Unutilized
 Comment: 160 acres, road and utility easements, no utility hookup, possible flooding problem.

Parcel B
 Hawthorne Army Ammunition Plant
 Hawthorne Co: Mineral NV 89415-
 Location: At foot of Eastern slope of Mount Grant in Wassuk Range & S.W. edge of Walker Lane
 Landholding Agency: Army
 Property Number: 219012056
 Status: Unutilized
 Comment: 1920 acres; road and utility easements; no utility hookup; possible flooding problem.

Parcel C
 Hawthorne Army Ammunition Plant
 Hawthorne Co: Mineral NV 89415-
 Location: South-southwest of Hawthorne along HWAAP's South Magazine Area at Western edge of State Route 359
 Landholding Agency: Army
 Property Number: 219012057
 Status: Unutilized
 Comment: 85 acres; road & utility easements; no utility hookup.

Parcel D
 Hawthorne Army Ammunition Plant
 Hawthorne Co: Mineral NV 89415-
 Location: South-southwest of Hawthorne along HWAAP's South Magazine Area at western edge of State Route 359.
 Landholding Agency: Army
 Property Number: 219012058
 Status: Unutilized
 Comment: 955 acres; road & utility easements; no utility hookup.

Tennessee

Milan Army Ammunition Plant
 Milan Co: Carroll TN 38358-
 Location: Plant boundary in the northeast corner of the plant & housing area
 Landholding Agency: Army
 Property Number: 219010547
 Status: Excess
 Comment: 17.2 acres; right of entry legal constraint

Holston Army Ammunition Plant
 Kingsport Co: Hawkins TN 61299-6000
 Landholding Agency: Army
 Property Number: 219012338
 Status: Unutilized
 Comment: 8 acres; unimproved; could provide access; 2 acres unusable; near explosives.

Texas

Land Saginaw Army Aircraft Plt
 Saginaw Co: Tarrant TX 76070-
 Landholding Agency: Army
 Property Number: 219014814
 Status: Unutilized
 Comment: 154.3 acres; includes buildings/structures/parking and air strip.

SUITABLE/UNAVAILABLE PROPERTIES

California

Bldg. 226
 Parks Reserve Forces Training Area

Dublin Co: Alameda CA 94129-
 Landholding Agency: Army
 Property Number: 219013010
 Status: Unutilized
 Comment: 11,500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Georgia

Bldg. 5325
 Fort Benning Co: Muscogee GA 31905-
 Landholding Agency: Army
 Property Number: 219010140
 Status: Unutilized
 Comment: 2124 sq. ft.; most recent use—barracks; needs rehab.

Kentucky

Bldgs. 2945
 Fort Campbell
 Fort Campbell Co: Christian KY 42223-
 Landholding Agency: Army
 Property Numbers: 219012543
 Status: Underutilized
 Comment: 4248 sq. ft.; 2 story; selected periods are reserved for military/training exercises; possible asbestos.

Bldgs. 144, 145
 Ft. Campbell
 Ft. Campbell Co: Christian KY 42223-
 Landholding Agency: Army
 Property Numbers: 219013140-219013141
 Status: Underutilized
 Comment: 12,576 sq. ft. each; 2 story; possible asbestos; most recent use—basic training central issue facility.

Louisiana

Bldg. 8323
 12th Street
 Fort Polk Co: Vernon LA 71459-5000
 Landholding Agency: Army
 Property Number: 219012730
 Status: Underutilized
 Comment: 4015 sq. ft.; temporary wood frame; most recent use—motor pool maintenance shop.

Massachusetts

Bldg. T-206
 Fort Devens
 Fort Devens Co: Middlesex/Worce MA 01433-
 Landholding Agency: Army
 Property Number: 219012345
 Status: Underutilized
 Comment: 1000 sq. ft., 1 story, wood, most recent use—day room.

Bldg. T-209
 Fort Devens
 Fort Devens MA 01433-
 Landholding Agency: Army
 Property Number: 219030265
 Status: Underutilized
 Comment: 4070 sq. ft.; 2 story wood frame; needs rehab; most recent use—barracks.

Tennessee

Area Q—Housing Area—Q-1
 Milan Army Ammunition Plant
 Milan Co: Carroll TN 38358-
 Landholding Agency: Army
 Property Number: 219120271
 Status: Underutilized
 Comment: 2024 sq. ft., 2 story wood frame, most recent use—residence, intermittently used during selected periods.

Virginia

Bldg. 2809
 Fort Pickett
 Blackstone Co: Nottoway VA 23824-
 Landholding Agency: Army
 Property Number: 219030271
 Status: Underutilized
 Comment: 3500 sq. ft.; selected periods are reserved for military/training exercises; most recent use—recreation building.

Bldg. 2649
 Fort Pickett
 Blackstone Co: Nottoway VA 23824-
 Landholding Agency: Army
 Property Number: 219030272
 Status: Underutilized
 Comment: 2900 sq. ft.; selected periods are reserved for military/training exercises; most recent use—dining facility

Bldgs. 2212, 2417
 Fort Pickett
 Blackstone Co: Nottoway VA 23824-
 Landholding Agency: Army
 Property Numbers: 219030279-219030280
 Status: Underutilized
 Comment: 2256 sq. ft. ea.; selected periods are reserved for military/training exercises; most recent use—headquarters building.

Bldgs. 1693-1695
 Fort Pickett
 Blackstone Co: Nottoway VA 23824-
 Landholding Agency: Army
 Property Numbers: 219030281-219030283
 Status: Underutilized
 Comment: 6912 sq. ft. ea.; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldgs. T-3029, 3030, T-3037 thru T-3039
 Fort Pickett
 Blackstone Co: Nottoway VA 23824-
 Landholding Agency: Army
 Property Numbers: 219030284-219030288
 Status: Underutilized
 Comment: 4292 sq. ft. ea.; selected periods are reserved for military/training exercises; most recent use—barracks.

Bldgs. 1356, 1360-1362, 1668-1675, 1678-1685
 Fort Pickett
 Blackstone Co: Nottoway VA 23824-
 Landholding Agency: Army
 Property Numbers: 219030295-219030314
 Status: Underutilized
 Comment: 11,000 sq. ft. ea.; selected periods are reserved for military/training exercises; most recent use—mess hall.

SUITABLE/TO BE EXCESSED

Buildings (by State)

California

Bldg. 270
 Los Alamitos Armed Forces Reserve Center
 Main entrance on Lexington Dr.
 Los Alamitos Co: Orange CA 90720-5001
 Landholding Agency: Army
 Property Number: 219120324
 Status: Unutilized
 Comment: 90 sq. ft., concrete/aluminum, off-site use only, most recent use—aircraft steam cleaning bldg.

Maryland

Bldg. 101
 Walter Reed Army Medical Center

Forest Glen Section
Silver Spring Co: Montgomery MD 20910-
Landholding Agency: Army
Property Number: 219012678
Status: Underutilized
Comment: 18438 sq. ft.; needs rehab; possible asbestos; building listed on National Historic Register.

Bldg. 104

Walter Reed Army Medical Center
Forest Glen Section
Silver Spring Co: Montgomery MD 20910-
Landholding Agency: Army
Property Number: 219012679
Status: Underutilized
Comment: 12495 sq. ft.; needs rehab; possible asbestos; building listed on National Historic Register.

Bldg. 107

Walter Reed Army Medical Center
Forest Glen Section
Silver Spring Co: Montgomery MD 20910-
Landholding Agency: Army
Property Number: 219012680
Status: Unutilized
Comment: 4107 sq. ft.; possible structural deficiencies; possible asbestos; historic property.

Bldg. 120

Walter Reed Army Medical Center
Forest Glen Section
Silver Spring Co: Montgomery MD 20910-
Landholding Agency: Army
Property Number: 219012681
Status: Underutilized
Comment: 2442 sq. ft.; possible structural deficiencies; possible asbestos; historic property.

UNSUITABLE PROPERTIES

Buildings (by State)

Alabama

80 Bldgs.
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898-
Landholding Agency: Army
Property Number: 219014000, 219014003-
219014005, 219014009, 219014012,
219014015-219014053, 219014055-219014061,
219014064, 219014066, 219014068-219014080,
219014291-219014292, 219110109-219110111,
219120247-219120251, 219130001,
219140614-219140615
Status: Unutilized
Reason: Secured Area.

Bldg. P00894

Fort McClellan
3rd Avenue in Area 8 Motor Pool
Fort McClellan Co: Calhoun AL 36205-5000
Landholding Agency: Army
Property Number: 219110048
Status: Unutilized
Reason: Other
Comment: Gas station.
Bldg. T00862
Fort McClellan
Off 21st Street between 2nd & 3rd Avenue
Fort McClellan Co: Calhoun AL 36205-5000
Landholding Agency: Army
Property Number: 219130019
Status: Unutilized
Reason: Other
Comment: Extensive deterioration.

Complex A, B, C, D
Anniston Army Depot
Wherry Housing—Terrace Homes Apt.
Anniston Co: Calhoun AL 36201-
Landholding Agency: Army
Property Number: 219130104-219130107
Status: Excess
Reason: Other
Comment: Extensive deterioration.

Two Bedroom Apt.

Anniston Army Depot
Wherry Housing—Terrace Homes Apt.
Anniston Co: Calhoun AL 36201-
Landholding Agency: Army
Property Number: 219130108
Status: Excess
Reason: Other
Comment: Extensive deterioration.

77 Bldgs.

Alabama Army Ammunition Plant
110 Hwy. 235
Childersburg Co: Talladega AL 35044-
Landholding Agency: Army
Property Number: 219210018-219210094
Status: Excess
Reason: Secured Area.

Bldgs. 5710, 5814, 5815

Fort Rucker
Ft. Rucker Co: Dale AL 36362-
Landholding Agency: Army
Property Number: 219210140-219210141
Status: Unutilized
Reason: Other
Comment: Extensive deterioration.

L006T1, L006T2, L006T3

Troy Municipal Airport
Troy Co: Pike AL 36081
Landholding Agency: Army
Property Number: 219220294
Status: Unutilized
Reason: Other

Comment: Extensive deterioration.

Bldgs. 3403, 24201-24203, Fort Rucker
Ft. Rucker Co: Dale AL 36362
Landholding Agency: Army
Property Number: 219220341-219220344
Status: Unutilized
Reason: Other
Comment: Extensive deterioration.

Alaska

Bldgs. 4006, 3705
Fort Wainwright
6th Infantry Division
Fort Wainwright Co: Fairbanks AK
Landholding Agency: Army
Property Number: 219013778, 219013780
Status: Excess
Reason: Secured Area.
Bldg. 603
Fort Richardson
Fort Richardson Co: Anchorage AK 99505-
Landholding Agency: Army
Property Number: 219014289
Status: Excess
Reason: Secured Area.
Bldgs. P01024, 1188, 2050, 5001
Fort Wainwright Co: Fairbanks AK 99703-
Landholding Agency: Army
Property Number: 219014685-219014686,
219014690, 219220346
Status: Unutilized
Reason: Floodway.
Bldgs. 1514, 1548, 1568
Fort Wainwright Co: Fairbanks AK 99703-

Landholding Agency: Army
Property Number: 219014687-219014689
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area.

Bldgs. 1066, 1062

Officer's Military Housing
Fort Wainwright Co: Fairbanks AK 99703-
Location: North of Apple street and West of 100th street.

Landholding Agency: Army
Property Number: 219014691-219014692
Status: Underutilized
Reason: Floodway.

16 Bldgs.

Fort Greely
Ft. Greely AK 99790
Landholding Agency: Army
Property Number: 219210124-219210125,
219220319-219220332
Status: Unutilized
Reason: Other
Comment: Extensive deterioration.

Bldgs. S-819-S-822, 47022, Fort Richardson
Ft. Richardson Co: Anchorage AK 99505
Landholding Agency: Army
Property Number: 219220347-219220351
Status: Unutilized
Reason: Within airport runway clear zone.

Bldgs. 539600, T-47713, 47715, 35752, Fort Richardson

Ft. Richardson Co: Anchorage AK 99505
Landholding Agency: Army
Property Number: 219220352-219220355
Status: Unutilized
Reason: Other
Comment: Extensive deterioration.

Arizona

49 Bldgs.
Yuma Proving Ground
Yuma Co: Yuma/La Paz AZ 85365-9102
Landholding Agency: Army
Property Number: 219011738, 219011744-
219011745, 219013931-219013958,
219013962-219013964, 219013966-219013980
Status: Underutilized
Reason: Secured Area.
32 Bldgs.
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015-
Location: 12 miles west of Flagstaff, Arizona on I-40
Landholding Agency: Army
Property Number: 219014560-219014591
Status: Underutilized
Reason: Secured Area.
10 properties: 753 earth covered igloos; above ground standard magazines
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015-
Location: 12 miles west of Flagstaff, Arizona on I-40
Landholding Agency: Army
Property Number: 219014592-219014601
Status: Underutilized
Reason: Secured Area.
9 Bldgs.
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015-5000
Location: 12 miles west of Flagstaff on I-40
Landholding Agency: Army
Property Number: 219030273-219030274,
219120175-219120181

Status: Unutilized
Reason: Secured Area.
Bldgs. 22330, 84001
Fort Huachuca
Sierra Vista Co: Cochise AZ 85635-
Landholding Agency: Army
Property Number: 219210016-219210017
Status: Excess
Reason: Other
Comment: Extensive deterioration.

Arkansas

Fort Smith USAR Center
Fort Smith
1218 South A Street
Fort Smith Co: Sebastian AR 72901-
Landholding Agency: Army
Property Number: 219014928
Status: Unutilized
Reason: Within 2000 ft. of flammable or
explosive material.
U.S. Army Garrison
Fort Chaffee
428 Ellis Avenue
Fort Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219110114
Status: Underutilized
Reason: Other
Comment: Fuel pumphouse.
Army Reserve Center
Hwy 79 North
Camden Co: Calhoun AR 71701-3415
Landholding Agency: Army
Property Number: 219220345
Status: Unutilized
Reason: Other
Comment: Extensive deterioration.
U.S. Army Garrison
Fort Chaffee
1916 and 2520 1st Avenue
Fort Chaffee Co: Sebastian AR 72905-5000
Landholding Agency: Army
Property Number: 219110115-219110116
Status: Unutilized
Reason: Other
Comment: Fuel pumphouse.

California

Bldgs. P-99, T-324
Fort Hunter Liggett
Jolon Co: Monterey CA 93944-
Landholding Agency: Army
Property Number: 219012413, 219012420
Status: Unutilized
Reason: Other
Comment: Latrine, detached structure.
Bldgs. P-177, P-178, 325
Fort Hunter Liggett
Jolon Co: Monterey CA 93928-
Landholding Agency: Army
Property Number: 219012414-219012415,
219012600
Status: Unutilized
Reason: Within 2000 ft. of flammable or
explosive material.
Bldg. 18
Riverbank Army Ammunition Plant
5300 Claus Road
Riverbank Co: Stanislaus CA 95367-
Landholding Agency: Army
Property Number: 219012554
Status: Unutilized
Reason: Within 2000 ft. of flammable or
explosive material Secured Area.

Bldgs. T-323, T-322
Fort Hunter Liggett
Mission Road
Jolon Co: Monterey CA 93928-
Landholding Agency: Army
Property Number: 219012601-219012602
Status: Unutilized
Reason: Within 2000 ft. of flammable or
explosive material.
Comment: Within 2,000 ft. of sewage facility.
9 Bldgs., Nos. 2-8, 18, 156
Riverbank Army Ammunition Plant
5300 Claus Road
Riverbank Co: Stanislaus CA 95367-
Landholding Agency: Army
Property Number: 219013582-219013590
Status: Underutilized
Reason: Secured Area.
9 Bldgs.
Oakland Army Base
Oakland Co: Alameda CA 94628-5000
Landholding Agency: Army
Property Number: 219013903-219013906,
219120048-219120051, 219140568
Status: Unutilized
Reason: Secured Area.
Bldg. S-108
Sharpe Army Depot
Lathrop Co: San Joaquin CA 95331-
Location: Roth Road
Landholding Agency: Army
Property Number: 219014290
Status: Underutilized
Reason: Secured Area.
Bldg. S-184
Fort Hunter Liggett
Ft. Hunter Liggett Co: Monterey CA 93928-
Location: POL Road
Landholding Agency: Army
Property Number: 219014602
Status: Underutilized
Reason: Secured Area.
17 Bldgs.
Sierra Army Depot
Herlong Co: Lassen CA 96113-
Landholding Agency: Army
Property Number: 219014695-219014700,
219014703-219014705, 219014713-219014717,
219014719-219014721
Status: Unutilized
Reason: Secured Area.
Bldg. S-369
Sierra Army Depot
Herlong Co: Lassen CA 96113-
Landholding Agency: Army
Property Number: 219014706
Status: Unutilized
Reason: Other Secured Area
Comment: Detached Latrine.
Bldg. P-88
Sierra Army Depot
Road Oil Storage
Herlong Co: Lassen CA 96113-
Landholding Agency: Army
Property Number: 219014707
Status: Unutilized
Reason: Other
Comment: Oil Storage Tank.
P-C0707, P-C0708, P-C0808-Igloo
Sierra Army Depot
Magazine Area
Herlong Co: Lassen CA 96113-
Landholding Agency: Army
Property Number: 219014708-219014710

Status: Unutilized
Reason: Secured Area.
Bldgs. 173, 177, 197
Roth Road—Sharpe Army Depot
Lathrop Co: San Joaquin CA
Landholding Agency: Army
Property Number: 219014940-219014942
Status: Unutilized
Reason: Secured Area.
39 Bldgs., Nos. 3001-3040
Wherry Housing, Title VIII
Sierra Army Depot
Herlong Co: Lassen CA 96113-
Location: Intersection of Susanville Road and
Flagler Blvd.
Landholding Agency: Army
Property Number: 219030128-219030167
Status: Unutilized
Reason: Secured Area.
Bldgs. S-321, T-136 Sierra Army Depot
Herlong Co: Lassen CA 96113-
Landholding Agency: Army
Property Number: 219120046-219120047
Status: Unutilized
Reason: Secured Area.
Bldgs. 13, 171, 178 Riverbank Ammun Plant
5300 Claus Road
Riverbank Co: Stanislaus CA 95367-
Landholding Agency: Army
Property Number: 219120162-219120164
Status: Underutilized
Reason: Secured Area.
Bldg. 81
Los Alamitos Armed Forces Reserve Center
Los Alamitos Co: Orange CA 90720-5001
Location: Main entrance on Lexington Dr.
Landholding Agency: Army
Property Number: 219120276
Status: Unutilized
Reason: Other
Comment: detached latrine.
Bldgs. S-80, S-115, S-133, S-136, S-206
Sharpe Site
Roth Road
Lathrop Co: San Joaquin CA 95331-
Landholding Agency: Army
Property Number: 219140262-219140266
Status: Unutilized
Reason: Secured Area.

Colorado

87 Bldgs.
Pueblo Army Depot
Pueblo Co: Pueblo CO 81001-
Location: 14 miles East of Pueblo City on
Highway 50
Landholding Agency: Army
Property Number: 219012209, 219012211,
219012214, 219012216, 219012221,
219012223-219012224, 219012226-219012228,
219012230-219012237, 219012239-219012257,
219012260-219012278, 219012280-219012288,
219012290-219012298, 219012300, 219012303,
219012743, 219012745, 219012747-219012748,
219014845, 219120058-219120063
Status: Unutilized
Reason: Secured Area.
Bldgs. T-9643, T-9644
Fort Carson
Butts Airfield
Colorado Springs Co: El Paso CO 80913-5023
Landholding Agency: Army
Property Number: 219013603-219013604
Status: Unutilized

Reason: Secured Area.

8 Bldgs., Fort Carson
 Colorado Springs Co: El Paso CO 80913
 Landholding Agency: Army
 Property Number: 219220356-219220363
 Status: Unutilized
 Reason: Other
 Comment: Extensive deterioration.
 Bldg. 9648, Fort Carson
 Colorado Springs Co: El Paso CO 80913
 Landholding Agency: Army
 Property Number: 219220364
 Status: Unutilized
 Reason: Within airport runway clear zone
 Other
 Comment: Extensive deterioration.
 Bldg. 3488, Fort Carson
 Colorado Springs Co: El Paso CO 80913
 Landholding Agency: Army
 Property Number: 219220365
 Status: Unutilized
 Reason: Secured Area.

Georgia

Fort Stewart
 Sewage Treatment Plant
 Ft. Stewart Co: Hinesville GA 31314-
 Landholding Agency: Army
 Property Number: 219013922
 Status: Unutilized
 Reason: Other
 Comment: Sewage treatment.
 Railway Spur and Bridge
 Fort Gillem
 Forest Park Co: Clayton GA 30050-
 Location: Located on Highway 42, Southeast
 Landholding Agency: Army
 Property Number: 219014293
 Status: Unutilized
 Reason: Within airport runway clear zone.
 Facility 12304
 Fort Gordon
 Augusta Co: Richmond GA 30905-
 Location: Located off Lane Avenue
 Landholding Agency: Army
 Property Number: 219014787
 Status: Unutilized
 Reason: Other
 Comment: Wheeled vehicle grease/
 inspection rack.
 Bldg. 5397
 Fort Benning
 Ft. Benning Co: Muscogee GA 31905-
 Landholding Agency: Army
 Property Number: 219120268
 Status: Unutilized
 Reason: Other
 Comment: Detached lavatory bldg.
 32 Bldgs.
 Fort Gordon
 Augusta Co: Richmond GA 30905-
 Landholding Agency: Army
 Property Number: 219140179-219140180,
 219220284-219220293
 Status: Unutilized
 Reason: Other
 Comment: Extensive deterioration.
 26 Bldgs.
 Fort Gordon
 Augusta Co: Richmond GA 30905-
 Landholding Agency: Army
 Property Number: 219140181-219140206
 Status: Unutilized
 Reason: Other

Comment: Structural damage.

Bldgs. GT001, GT002, GT003, GT004, 11725-
 11727
 Fort Gordon
 Augusta Co: Richmond GA 30905-
 Landholding Agency: Army
 Property Number: 219210136-219210139
 Status: Unutilized
 Reason: Secured Area.
 8 Bldgs., Fort Benning
 Ft. Benning Co: Muscogee GA 31905-
 Landholding Agency: Army
 Property Number: 21922033-219220340
 Status: Unutilized
 Reason: Other
 Comment: Detached lavatory.

Hawaii

PU-01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11
 Schofield Barracks
 Kulekole Pass Road
 Wahiawa Co: Wahiawa HI 96786-
 Landholding Agency: Army
 Property Number: 219014836-219014837
 Status: Unutilized
 Reason: Secured Area.
 TMK 1-6-8-8-11
 Dillingham Military Reservation
 Waiialua Co: Wahiawa HI 96791-
 Location: Property adjacent to 68-999
 Farrington Highway
 Landholding Agency: Army
 Property Number: 219014838
 Status: Unutilized
 Reason: Other environmental
 Comment: Civil Defense—Tsunami Inundated
 area.
 TMK 1-6-9-1-29
 Dillingham Military Reservation
 Waiialua Co: Wahiawa HI 96791-
 Location: In Quarry site
 Landholding Agency: Army
 Property Number: 219014839
 Status: Unutilized
 Reason: Secured Area.
 P-001, PN-05
 Kahuku Training Area
 Kahuku Training Area Access Road
 Kahuku HI 96731-
 Landholding Agency: Army
 Property Number: 219030322-219030323
 Status: Underutilized
 Reason: Secured Area.
 P-88
 Aliamanu Military Reservation
 Honolulu Co: Honolulu HI 96818-
 Location: Approximately 600 feet from Main
 Gate on Aliamanu Drive.
 Landholding Agency: Army
 Property Number: 219030324
 Status: Unutilized
 Reason: Other environmental
 Comment: Friable Asbestos.
 P-3384 East Range
 Schofield Barracks
 East Range Road
 Wahiawa Co: Wahiawa HI 96786-
 Landholding Agency: Army
 Property Number: 219030361
 Status: Unutilized
 Reason: Secured Area.
 Bldg. T-007
 Kahuku Training Area
 Old Nike Site 2

Kahuku Co: Kahuku HI 96731-
 Landholding Agency: Army
 Property Number: 219140567
 Status: Unutilized
 Reason: Secured Area.

Illinois

577 Bldgs.
 Joliet Army Ammunition Plant
 Joliet Co: Will IL 60436-
 Landholding Agency: Army
 Property Number: 219010153-219010317,
 219010319-219010413, 219010415-219010439,
 219011750-219011879, 219011881-219011908,
 219012331, 219013076-219013138,
 219014722-219014781, 219030277-219030278,
 219040354, 219140441-219140446, 219210146
 Status: Unutilized
 Reason: Secured Area; many within 2000 ft.
 of flammable or explosive materials; some
 within floodway.
 Bldg. 251
 Rock Island Arsenal
 Rock Island Co: Rock Island IL 61299-5000
 Landholding Agency: Army
 Property Number: 219012357
 Status: Unutilized
 Reason: Within 2000 ft. of flammable or
 explosive material Secured Area.

Bldg. 725
 Fort Sheridan
 Highwood Co: Lake IL 60037-5000
 Landholding Agency: Army
 Property Number: 219013769
 Status: Underutilized
 Reason: Secured Area.
 Bldgs. 58, 59 and 72, 69, 64, 105
 Rock Island Arsenal
 Rock Island Co: Rock Island IL 61299-5000
 Landholding Agency: Army
 Property Number: 219110104-219110108
 Status: Unutilized
 Reason: Secured Area.
 Bldg. 133, Rock Island Arsenal
 Gillespie Avenue
 Rock Island Co: Rock Island IL 61299-
 Landholding Agency: Army
 Property Number: 219210100
 Status: Underutilized
 Reason: Other
 Comment: Extensive deterioration.

Indiana

138 Bldgs.
 Indiana Army Ammunition Plant (INAAP)
 Charlestown Co: Clark IN 47111-
 Landholding Agency: Army
 Property Number: 219010913-219010919,
 219010925-219010926, 219010929-219010936,
 219010952, 219010954-219010955, 219010957,
 219010959-219010960, 219010962-219010964,
 219010966-219010967, 219010969-219010970,
 219011449, 219011454, 219011456-219011457,
 219011459-219011464, 219013764, 219013848,
 219014608-219014620, 219014622-219014651,
 219014653-219014683, 219030315,
 219120168-219120171, 219140425-219140440
 Status: Unutilized
 Reason: Within 2000 ft. of flammable or
 explosive material Secured Area.
 6 Bldgs.
 Indiana Army Ammunition Plant
 Charlestown Co: Clark IN 47111-
 Landholding Agency: Army

Property Number: 219010920, 219010924,
219010927-219010928, 219014621, 219014652
Status: Unutilized
Reason: Within 2000 ft. of flammable or
explosive material.

56 Bldgs.

Newport Army Ammunition Plant
Newport Co: Vermillion IN 47986-
Landholding Agency: Army
Property Number: 219011584, 219011586-
219011587, 219011589-219011590,
219011592-219011627, 219011629-219011636,
219011638-219011641, 219210149-219210151,
219220220

Status: Unutilized
Reason: Secured Area.

Bldg T-109

Fort Benjamin Harrison
Beaumont Road
Ft. Benjamin Harrison Co: Marion IN 47216-
5450

Landholding Agency: Army
Property Number: 219011648
Status: Unutilized
Reason: Within 2000 ft. of flammable or
explosive material.

25 Bldgs.

Indiana Army Ammunition Plant
Charlestown Co: Clark IN 47111-
Landholding Agency: Army
Property Number: 219210152-219210155
Status: Unutilized
Reason: Secured Area.

Iowa

14 Bldgs.

Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638-
Landholding Agency: Army
Property Number: 219012603, 219012605-
219012607, 219012609, 219012611, 219012613,
219012615, 219012620, 219012622, 219012624,
219120172-219120174

Status: Unutilized
Reason: Within 2000 ft. of flammable or
explosive material Secured Area.

33 Bldgs.

Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638-
Landholding Agency: Army
Property Number: 219013706-219013738
Status: Unutilized
Reason: Secured Area.

Kansas

37 Bldgs.

Kansas Army Ammunition Plant
Production Area
Parsons Co: Labette KS 67357-
Landholding Agency: Army
Property Number: 219011909-219011945
Status: Unutilized
Reason: Secured Area (Most are within 2000
ft. of flammable or explosive material)

324 Bldgs.

Sunflower Army Ammunition Plant
35425 W. 103rd Street
DeSoto Co: Johnson KS 66018-
Landholding Agency: Army
Property Number: 219040005-219040006,
219040032-219040035
Status: Unutilized
Reason: Within 2000 ft. of flammable or
explosive material Floodway, Secured
Area.

25 Bldgs.

Sunflower Army Ammunition Plant
35425 W. 103rd Street
DeSoto Co: Johnson KS 66018-
Landholding Agency: Army
Property Number: 219040007-219040031
Status: Unutilized
Reason: Within 2000 ft. of flammable or
explosive material Floodway.

Bldg. 9002

Sunflower Army Ammunition Plant
35525 W. 103rd Street
DeSoto Co: Johnson KS 66018-
Landholding Agency: Army
Property Number: 219110073
Status: Excess
Reason: Within 2000 ft. of flammable or
explosive material Secured Area.

36 Bldgs.

Fort Riley
Ft. Riley Co: Geary KS 66442-
Landholding Agency: Army
Property Number: 219140207-219140240,
219210126, 219220219
Status: Unutilized
Reason: Other
Comment: Extensive deterioration.

33 Bldgs.

Sunflower Army Ammunition Plant
35425 West 103rd
Desoto Co: Johnson KS 66018-
Landholding Agency: Army
Property Number: 219140569-219140577,
219140580-219140592, 219140594,
219140599-219140601, 219140606-219140612
Status: Unutilized
Reason: Secured Area Within 2000 ft. of
flammable or explosive material Floodway.

11 Latrines

Sunflower Army Ammunition Plant
35425 West 103rd
Desoto Co: Johnson KS 66018-
Landholding Agency: Army
Property Number: 219140578-219140579,
219140593, 219140595-219140598,
219140602-219140605
Status: Unutilized
Reason: Other
Comment: Detached Latrine.

Kentucky

Bldg. 126
Lexington—Blue Grass Army Depot
Lexington Co: Fayette KY 40511-
Location: 12 miles northeast of Lexington,
Kentucky.
Landholding Agency: Army
Property Number: 219011661
Status: Unutilized
Reason: Other Secured Area
Comment: Sewage treatment facility.

Bldg. 12

Lexington—Blue Grass Army Depot
Lexington Co: Fayette KY 40511-
Location: 12 miles Northeast of Lexington
Kentucky.

Landholding Agency: Army
Property Number: 219011663
Status: Unutilized
Reason: Other
Comment: Industrial waste treatment plant.

96 Bldgs., Fort Knox

Ft. Knox Co: Hardin KY 40121-
Landholding Agency: Army

Property Number: 219140557-219140565,
219210156-219210242

Status: Unutilized
Reason: Other
Comment: Extensive deterioration.
99 Bldgs., Fort Knox
Ft. Knox Co: Hardin KY 40121
Landholding Agency: Army
Property Number: 219220001-219220099
Status: Underutilized
Reason: Other
Comment: Extensive deterioration.
Bldgs. TO5650, TO6136, TO6382, TO6488
Fort Campbell
Ft. Campbell Co: Christian KY 42223-
Landholding Agency: Army
Property Number: 219210132-219210135
Status: Unutilized
Reason: Secured Area
Comment: Extensive deterioration.

Louisiana

58 Bldgs.

Louisiana Army Ammunition Plant
Doylin Co: Webster LA 71023-
Landholding Agency: Army
Property Number: 219011668-219011670,
219011691, 219011700, 219011714-219011716,
219011718-219011724, 219011726, 219011728,
219011731, 219011733-219011737, 219012112,
219013571-219013572, 219013862-219013869,
219110124-219110137, 219120287-219120290,
219120303, 219140325-219140328, 219210147
Status: Unutilized
Reason: Secured Area (Most are within 2000
ft. of flammable or explosive material).

Staff Residences

Louisiana Army Ammunition Plant
Doyline Co: Webster LA 71023-
Landholding Agency: Army
Property Number: 219120284-219120286
Status: Excess
Reason: Secured Area.

Maryland

55 Bldgs.

Aberdeen Proving Ground
Aberdeen City Co: Harford MD 21005-5001
Landholding Agency: Army
Property Number: 219011406-219011417,
219012608, 219012610, 219012612, 219012614,
219012616-219012617, 219012619, 219012623,
219012625-219012629, 219012631,
219012633-219012635, 219012637-219012642,
219012645-219012651, 219012655-219012664,
219013773, 219014711-219014712, 219030318,
219110140

Status: Unutilized

Reason: Most are in a secured area. (Some
are within 2000 ft. of flammable or
explosive material) (Some are in a
floodway).

P501

Installation #24235
Ballast House
La Plata Co: Charles MD 20646-
Location: At the end of the access road
Landholding Agency: Army
Property Number: 219011643
Status: Unutilized
Reason: Within 2000 ft. of flammable or
explosive material Secured Area.

19 Bldgs.

Fort George G. Meade

Fort Meade Co: Anne Arundel MD 20755-
Landholding Agency: Army
Property Number: 219014789, 219014847,
219120153-219120158, 219130034-219130044
Status: Unutilized
Reason: Secured Area.

Bldg. 10401
Aberdeen Proving Ground
Aberdeen Area
Harford Co: Harford MD 21005-5001
Landholding Agency: Army
Property Number: 219110138
Status: Unutilized
Reason: Other
Comment: Sewage treatment plant

Bldg. 10402
Aberdeen Proving Ground
Aberdeen Area
Aberdeen City Co: Harford MD 21005-5001
Landholding Agency: Army
Property Number: 219110139
Status: Unutilized
Reason: Other
Comment: Sewage pumping station
Bldgs. 142-146, USARC Gaithersburg
8510 Snouffers School Road
Gaithersburg Co: Montgomery MD 20879-
1824

Landholding Agency: Army
Property Number: 219120009-219120013
Status: Unutilized
Reason: Secured Area

182 Bldgs. Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755-
Landholding Agency: Army
Property Number: 219130045-219130059,
219140455-219140523, 219210116-219210123,
219220108-219220197

Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldg. 351, Fort Ritchie
Ft. Ritchie Co: Washington MD 21719-5010
Landholding Agency: Army
Property Number: 219210128
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

6 Bldgs., Fort Ritchie
Ft. Ritchie Co: Washington MD 21719-5010
Landholding Agency: Army
Property Number: 219220221-219220226
Status: Underutilized
Reason: Other Secured Area
Comment: Extensive deterioration

Massachusetts

Material Technology Lab
405 Arsenal Street
Watertown Co: Middlesex MA 02132
Landholding Agency: Army
Property Number: 219120161
Status: Underutilized
Reason: Within 2000 ft. of flammable or
explosive material. Floodway. Secured
Area.

14 Bldgs.
Fort Devens
Ft. Devens Co: Middlesex/Worce MA 01433-
Landholding Agency: Army
Property Number: 219140241-219140254
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Bldgs. T-102, T-110, T-111, Hudson Family
Hsg
Natick RD&E Center
Bruen Road
Hudson Co: Middlesex MA 01749
Landholding Agency: Army
Property Number: 219220105-219220107
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Michigan

Bldgs. 602, 604
US Army Garrison Selfridge
Mt. Clemens Co: Macomb MI 48043-
Landholding Agency: Army
Property Number: 219012355-219012356
Status: Unutilized
Reason: Within airport runway clear zone.
Floodway. Secured Area

Detroit Arsenal Tank Plant
28251 Van Dyke Avenue
Warren Co: Macomb MI 48090-
Landholding Agency: Army
Property Number: 219014947-219014963,
219120001-219120008, 219140447-219140454
Status: Unutilized
Reason: Secured Area

Minnesota

Bldgs. 113, 575, 598
Twin Cities Army Ammunition Plant
New Brighton Co: Ramsey MN 55112-
Landholding Agency: Army
Property Number: 219120165-219120167
Status: Unutilized
Reason: Secured Area

11 Bldgs.
Twin Cities Army Ammunition Plant
Old Highway 8
New Brighton Co: Ramsey MN 55112-
Landholding Agency: Army
Property Number: 219210014-219210015,
219220227-219220235
Status: Unutilized
Reason: Secured Area. Within 2000 ft. of
flammable or explosive material

Mississippi

Bldgs. 8301, 8303-8305, 9158
Mississippi Army Ammunition Plant
Stennis Space Center Co: Hancock MS 39529-
7000
Landholding Agency: Army
Property Number: 219040438-219040442
Status: Unutilized
Reason: Within 2000 ft. of flammable or
explosive material. Secured Area

Missouri

Lake City Army Ammo. Plant
59, 59A, 59C, 59B
Independence Co: Jackson MO 64050-
Landholding Agency: Army
Property Number: 219013666-219013669
Status: Unutilized
Reason: Secured Area

Bldg. #1, 2, 3
St. Louis Army Ammunition Plant
4800 Goodfellow Blvd.
St. Louis Co: St. Louis MO 63120-1798
Landholding Agency: Army
Property Number: 219120067-219120069
Status: Unutilized
Reason: Secured Area
79 Bldgs.
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473-5000
Landholding Agency: Army
Property Number: 219140348-219140424,
219140634-219140635
Status: Unutilized
Reason: Within 2000 ft. of flammable or
explosive material

Nebraska

13 Bldgs.
Cornhusker Army Ammunition Plant
Grand Island Co: Hall NE 68802-
Location: 4 miles west (Potash Road)
Landholding Agency: Army
Property Number: 219013849-219013861
Status: Unutilized
Reason: Within 2000 ft. of flammable or
explosive material

Nevada

124 Bldgs.
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415-
Landholding Agency: Army
Property Number: 219011953, 219011955,
219011957-219011958, 219011960,
219011962-219011963, 219011965-219011967,
219011969, 219011971-219011973, 219011975,
219011979, 219011981, 219011983,
219011985-219011986, 219011988-219011989,
219011991-219011993, 219011995,
219011998-219012001, 219012003-219012004,
219012006-219012008, 219012010-219012012,
219012014-219012015, 219012017-219012020,
219012022-219012024, 219012026, 219012027,
219012029-219012030, 219012032-219012033,
219012035-219012036, 219012038-219012040,
219012042-219012043, 219012045-219012048,
219012050-219012055, 219012059-219012107,
219013613-219013614

Status: Unutilized
Reason: Secured Area
Bldg. 396
Hawthorne Army Ammunition Plant
Bachelor Enlisted Qtrs W/Dining Facilities
Hawthorne Co: Mineral NV 89415-
Location: East side of Decatur Street—North
of Maine Avenue

Landholding Agency: Army
Property Number: 219011997
Status: Unutilized
Reason: Within airport runway clear zone.
Secured Area

64 Bldgs.
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415-
Landholding Agency: Army
Property Number: 219012002, 219012005,
219012009, 219012013, 219012016, 219012021,
219012025, 219012028, 219012031, 219012034,
219012037, 219012041, 219012044,
219013615-219013665
Status: Underutilized
Reason: Secured Area (Some within airport
runway clear zone; many within 2000 ft. of
flammable or explosive material)

62 Concrete Explo. Mag. Stor.
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415-
Location: North Mag. Area
Landholding Agency: Army
Property Number: 219120150
Status: Unutilized
Reason: Secured Area

259 Concrete Explo. Mag. Stor.
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415-
Location: South & Central Mag. Areas
Landholding Agency: Army
Property Number: 219120151
Status: Unutilized
Reason: Secured Area

New Jersey

194 Bldgs.
Armament Res. Dev. & Eng. Ctr.
Picatinny Arsenal Co: Morris NJ 07806-5000
Location: Route 15 North
Landholding Agency: Army
Property Number: 219010440-219010474,
219010476, 219010478, 219010639-219010721,
219012423-219012475, 219013787,
219014306-219014321, 219030269-219030270,
219140616-219140617

Status: Excess
Reason: Within 2000 ft. of flammable or
explosive material. Secured Area

10 Bldgs.
Armament Reserve Dev. and Engineering
Center

Route 15 North
Picatinny Arsenal Co: Morris NJ 07806-
Landholding Agency: Army
Property Number: 219012756-219012760,
219012763-219012767

Status: Excess
Reason: Secured Area

Bldg. 2337
Fort Monmouth
Charles Wood Area
Wall Co: Monmouth NJ 07719-
Landholding Agency: Army
Property Number: 219012828
Status: Unutilized
Reason: Secured Area

18 Bldgs. (Evans Area)
Fort Monmouth
Wall Co: Monmouth NJ 07719-
Landholding Agency: Army
Property Number: 219012829-219012844,
219013786, 219210102
Status: Unutilized
Reason: Secured Area

Bldgs. 13-14, 15A, 41, 100, 110-111
Military Ocean Terminal
Bayonne Co: Hudson NJ 07002-
Location: Foot of 32nd Street and Route 169.
Landholding Agency: Army
Property Number: 219013890-219013896
Status: Unutilized
Reason: Floodway. Secured Area

New York

Bldgs. 10, 20, 40
Watervliet Arsenal
Watervliet Co: Albany NY 12189-4050
Landholding Agency: Army
Property Number: 219012514, 219012516,
219012519
Status: Underutilized
Reason: Within 2000 ft. of flammable or
explosive material. Secured Area

Bldg. 25
Watervliet Arsenal
Watervliet Co: Albany NY 12189-4050
Landholding Agency: Army
Property Number: 219012521
Status: Underutilized
Reason: Within 2000 ft. of flammable or
explosive material. Secured Area
Comment: contamination

Bldg. 110
Fort Totten
110 Duane Road
Bayside Co: Queens NY 11359-
Landholding Agency: Army
Property Number: 219012589
Status: Unutilized
Reason: Other
Comment: contamination
Bldgs. 202, 204, Fort Totten
Bayside Co: Queens NY 11357-
Landholding Agency: Army
Property Number: 219210130-219210131
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Ohio

63 Bldgs.
Ravenna Army Ammunition Plant
Ravenna Co: Portage OH 44266-9297
Landholding Agency: Army
Property Number: 219012476-219012507,
219012509-219012513, 219012515,
219012517-219012518, 219012520,
219012522-219012523, 219012525-219012528,
219012530-219012532, 219012534-219012535,
219012537, 219013670-219013677, 219013781,
219210148
Status: Unutilized
Reason: Secured Area

Oklahoma

Bldg. P-2505
Fort Sill
2505 Sheridan Road
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219011243
Status: Unutilized
Reason: Other
Comment: Latrine, detached structure
553 Bldgs.
McAlester Army Ammunition Plant
McAlester Co: Pittsburg OK 74501-5000
Landholding Agency: Army
Property Number: 219011674, 219011680,
219011684, 219011687, 219012113,
219013792-219013793, 219013981-219013985,
219014061-219014102, 219014104,
219014107-219014137, 219014139,
219014141-219014159, 219014161-219014162,
219014165-219014216, 219014218-219014274,
219014336-219014559, 219030007-219030127,
219040004
Status: Underutilized
Reason: Secured Area (Some are within 2000
ft. of flammable or explosive material)

P-3042, Fort Sill
3042 Austin Road
Lawton Co: Comanche OK 73503-5100
Landholding Agency: Army
Property Number: 219130060
Status: Unutilized
Reason: Other
Comment: Structurally unsound
33 Bldgs.

Fort Sill
Lawton Co: Comanche OK 73503-
Landholding Agency: Army
Property Number: 219140524-219140556
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

Oregon

11 Bldgs.
Tooele Army Depot
Umatilla Depot Activity
Hermiston Co: Morrow/Umatilla OR 97838-
Landholding Agency: Army
Property Number: 219012174-219012178,
219012178-219012179, 219012190-219012191,
219012197-219012198, 219012217, 219012229
Status: Underutilized
Reason: Secured Area
24 Bldgs.
Tooele Army Depot
Umatilla Depot Activity
Hermiston Co: Morrow/Umatilla OR 97838-
Landholding Agency: Army
Property Number: 219012177, 219012185-
219012186, 219012189, 219012195-219012196,
219012199-219012205, 219012207-219012208,
219012225, 219012279, 219014304-219014305,
219014782, 219014844, 219030362-219030363,
219120032
Status: Unutilized
Reason: Secured Area

Pennsylvania

Defense Personnel Support Ctr.
2800 South 20th Street
Philadelphia Co: Philadelphia PA 19101-8419
Landholding Agency: Army
Property Number: 219011664
Status: Underutilized
Reason: Other environmental. Secured Area
Comment: Friable asbestos
Hays Army Ammunition Plant
300 Miffin Road
Pittsburgh Co: Allegheny PA 15207-
Landholding Agency: Army
Property Number: 219011666
Status: Excess
Reason: Secured Area

58 Bldgs.

Fort Indiantown GAP
Annville Co: Lebanon PA 17003-5011
Landholding Agency: Army
Property Number: 219140267-219140324
Status: Unutilized
Reason: Other
Comment: Extensive deterioration

South Carolina

14 Bldgs.—Fort Jackson
Ft. Jackson Co: Richland SC 29207-
Landholding Agency: Army
Property Number: 219140329, 219140331,
219140333, 219140337-219140347
Status: Unutilized
Reason: Other
Comment: Extensive deterioration
Bldg. D-5874
Fort Jackson
Ft. Jackson Co: Richland SC 29207-
Landholding Agency: Army
Property Number: 219140330
Status: Unutilized
Reason: Other
Comment: Detached Latrine

4 Bldgs.

Fort Jackson

Ft. Jackson Co: Richland SC 29207-

Landholding Agency: Army

Property Number: 219140332, 219140334-219140336

Status: Underutilized

Reason: Other

Comment: Structural damage

Tennessee

Bldg. 100

Volunteer Army Ammo. Plant

Chattanooga Co: Hamilton TN 37422-

Landholding Agency: Army

Property Number: 219010475

Status: Unutilized

Reason: Within 2000 ft. of flammable or explosive material. Secured Area

23 Bldgs.

Volunteer Army Ammo. Plant

Chattanooga Co: Hamilton TN 37422-

Landholding Agency: Army

Property Number: 219010477, 219010479-219010500

Status: Underutilized Reason: Secured Area (Some are within 2000 ft. of flammable or explosive material)

45 Bldgs.

Milan Army Ammunition Plant

Milan Co: Carroll TN 38358-

Landholding Agency: Army

Property Number: 219010501, 219010503, 219010505, 219010545, 219010551, 219010554, 219010557, 219010567, 219010569, 219010573, 219010576, 219010596, 219010600-219010602, 219010604, 219010606-219010607, 219010610-219010611, 219010613-219010622, 219010624-219010634, 219010922, 219030317-219030319

Status: Unutilized

Reason: Secured Area (Some are within 2000 ft. of flammable or explosive material)

201 Bldgs.

Milan Army Ammunition Plant

Milan Co: Carroll TN 38358-

Landholding Agency: Army

Property Number: 219010504, 219010506-219010508, 219010510, 219010515, 219010521, 219010523, 219010525-219010526, 219010531, 219010538-219010539, 219010544, 219010546, 219010548-219010550, 219010553, 219010555-219010556, 219010558, 219010561-219010566, 219010568, 219010570-219010572, 219010574-219010575, 219010577-219010582, 219010584-219010586, 219010588-219010595, 219010597, 219010599, 219010635-219010638, 219010923, 219014792-219014795, 219014797, 219014801-219014802, 219014804-219014811, 219030317-219030319, 219030321, 21911001-219110031, 219110074-219110101, 219120182-219120246

Status: Underutilized

Reason: Secured Area (Some are within 2000 ft. of flammable or explosive material)

23 Bldgs.

Holston Army Ammunition Plant

Kingsport Co: Hawkins TN 61299-6000

Landholding Agency: Army

Property Number: 219012304-219012309, 219012311-219012312, 219012314, 219012316-219012317, 219012319, 219012325, 219012328, 219012330, 219012332, 219012334-219012335, 219012337, 219013789-219013790, 219030266, 219140613

Status: Unutilized

Reason: Secured Area (Some are within 2000 ft. of flammable or explosive material)

Texas

Saginaw Army Aircraft Plant

Saginaw Co: Tarrant TX 76079-

Landholding Agency: Army

Property Number: 219011665

Status: Unutilized

Reason: Other

Comment: Easement to city of Saginaw for sewer pipeline ending 5/15/2023

18 Bldgs.

Lone Star Army Ammunition Plant

Highway 82 West

Texarkana Co: Bowie TX 75505-9100

Landholding Agency: Army

Property Number: 219012524, 219012529, 219012533, 219012536, 219012539-219012540, 219012542, 219012544-219012545, 219030337-219030345

Status: Unutilized

Reason: Within 2000 ft. of flammable or explosive material. Secured Area

Bldgs. 0021A, 0027A

Longhorn Army Ammunition Plant

Karnack Co: Harrison TX 75681-

Location: State highway 43 north

Landholding Agency: Army

Property Number: 219012546, 219012548

Status: Underutilized

Reason: Secured Area

Bldg. 14

Saginaw Army Aircraft Plant

Saginaw Co: Tarrant TX 76070-

Landholding Agency: Army

Property Number: 219014823

Status: Unutilized

Reason: Other

Comment: Pump house

Bldg. 9042

Possum Kingdom Rec Area

Star Route, Box 200

Grayford Co: Palo Pinto TX 76045-

Landholding Agency: Army

Property Number: 219040397

Status: Unutilized

Reason: Other

Comment: Detached latrine

Bldg. 9046

Possum Kingdom Rec Area

Star Route, Box 200

Grayford Co: Palo Pinto TX 76045-

Landholding Agency: Army

Property Number: 219040399

Status: Unutilized

Reason: Other

Comment: Sewage treatment plant

Bldg. 9047

Possum Kingdom Rec Area

Star Route, Box 200

Grayford Co: Palo Pinto TX 76045-

Landholding Agency: Army

Property Number: 219040400

Status: Unutilized

Reason: Other

Comment: Chlorine Building

Bldg. 40A Red River Army Depot

Texarkana Co: Bowie TX 75505-

Landholding Agency: Army

Property Number: 219120064

Status: Unutilized

Reason: Secured Area

Bldg. T-1191, T-1198 Fort Sam Houston

San Antonio Co: Bexar TX 78234-5000

Landholding Agency: Army

Property Number: 219120065-219120066

Status: Unutilized

Reason: Within 2000 ft. of flammable or explosive material

27 Ammunition Magazines

Fort Bliss Ammunition Supply Point

El Paso Co: El Paso TX 79916-

Landholding Agency: Army

Property Number: 219120072-219120098

Status: Unutilized

Reason: Other

Comment: Extensive deterioration

Bldg. 05

Red River Army Depot

18 miles W. of Texarkana, Hwy. 82

Texarkana Co: Bowie TX 75507-5000

Landholding Agency: Army

Property Number: 219130002

Status: Excess

Reason: Secured Area

Bldg. 247

Red River Army Depot

18 miles west of Texarkana U.S.Hwy. 82

Texarkana Co: Bowie TX 75507-5000

Landholding Agency: Army

Property Number: 219140255

Status: Underutilized

Reason: Secured Area

Bldg. 3474, Fort Hood

Training Road

Ft. Hood Co: Coryell TX 76544-

Landholding Agency: Army

Property Number: 219210129

Status: Unutilized

Reason: Other

Comment: Extensive deterioration

Bldg. T-5000

Camp Bullis

San Antonio Co: Bexar TX 78234-5000

Landholding Agency: Army

Property Number: 219220100

Status: Underutilized

Reason: Within 2000 ft. of flammable or explosive material

Bldgs. 5369, 5451, Fort Bliss

El Paso Co: El Paso TX 79916

Landholding Agency: Army

Property Number: 219220101-219220102

Status: Unutilized

Reason: Other

Comment: Detached lavatory

Bldgs. 11040, 11041, Fort Bliss

El Paso Co: El Paso TX 79916

Landholding Agency: Army

Property Number: 219220103-219220104

Status: Unutilized

Reason: Other

Comment: Extensive deterioration

Bldgs. 2812, 76016, Fort Hood

Ft. Hood Co: Coryell TX 76544

Landholding Agency: Army

Property Number: 219220208-219220209

Status: Unutilized

Reason: Other

Comment: Extensive deterioration

Utah

21 Bldgs.

Tooele Army Depot

Tooele Co: Tooele UT 84074-5008

Landholding Agency: Army

Property Number: 219012114-219012115,
219012121, 219012138, 219012140, 219012150,
219012153, 219012159, 219012162,
219012164-219012167, 219012169-219012170,
219012172, 219012752, 219012755, 219030366,
219120031, 219120283

Status: Unutilized

Reason: Secured Area

18 Bldgs.

Tooele Army Depot

Tooele Co: Tooele UT 84074-5008

Landholding Agency: Army

Property Number: 219012142-219012144,

219012148-219012149, 219012152, 219012155,

219012156, 219012158, 219012163, 219012171,

219012742, 219012750-219012751, 219014938,

219040003, 219120279, 219120281

Status: Underutilized

Reason: Secured Area.

12 Bldgs.

Dugway Proving Ground

Dugway Co: Tooele UT 84022-

Landholding Agency: Army

Property Number: 219013996-219013999,

219130008, 219130011-219130013,

219130015-219130018

Status: Underutilized

Reason: Secured Area.

8 Bldgs.

Dugway Proving Ground

Dugway Co: Tooele UT 84022-

Landholding Agency: Army

Property Number: 219014693, 219130009-

219130010, 219130014, 219220204-219220207

Status: Unutilized

Reason: Secured Area.

Bldg. 104

Tooele Army Depot, North Area

Tooele Co: Tooele UT 84074-5008

Landholding Agency: Army

Property Number: 219120014

Status: Underutilized

Reason: Other

Comment: Extensive deterioration.

13 Bldgs.

Tooele Army Depot, South Area

Tooele Co: Tooele UT 84074-5008

Landholding Agency: Army

Property Number: 219120015-21912027

Status: Unutilized

Reason: Other

Comment: Extensive deterioration.

Virginia

165 Bldgs.

Radford Army Ammunition Plant

Radford Co: Montgomery VA 24141-

Location: State Highway 114

Landholding Agency: Army

Property Number: 219010833, 219010836,

219010839, 219010842, 219010844,

219010847-219010890, 219010892-219010912,

219011521-219011577, 219011581-219011583,

219011585, 219011588, 219011591,

219013559-219013570, 219110142-219110143,

219120070-219120071, 219140618-219140633

Status: Unutilized

Reason: Within 2000 ft. of flammable or
explosive material. Secured Area.

13 Bldgs.

Radford Army Ammunition Plant

Radford Co: Montgomery VA 24141-

Location: State Highway 114

Landholding Agency: Army

Property Number: 219010834-219010835,

219010837-219010838, 219010840-219010841,

219010843, 219010845-219010846, 219010891,

219011578-219011580

Status: Unutilized

Reason: Within 2000 ft. of flammable or
explosive material. Other. Secured Area
Comment: Latrine, detached structure.

3 Bldgs.

Fort Belvoir Co: Fairfax VA 22060-

Landholding Agency: Army

Property Number: 219012553, 219012556,

219012562

Status: Unutilized

Reason: Within 2000 ft. of flammable or
explosive material.

20 Bldgs.

U.S. Army Combined Arms Support
Command

Fort Lee Co: Prince George VA 23801-

Landholding Agency: Army

Property Number: 219120033, 219120035-

219120039, 219120041-219120045, 219120160,

219130006-219130007, 219140256-219140261

Status: Unutilized

Reason: Other

Comment: Extensive deterioration.

Bldg. 448, Fort Myer

Co: Arlington VA 22211-

Landholding Agency: Army

Property Number: 219210127

Status: Unutilized

Reason: Other

Comment: Extensive deterioration.

Bldg. T-221

Vint Hill Farms Station

Warrenton Co: Fauquier VA 22186-

Landholding Agency: Army

Property Number: 219210142

Status: Unutilized

Reason: Other

Comment: Extensive deterioration.

Bldg. T-263, Fort Monroe

Ft. Monroe VA 23651

Landholding Agency: Army

Property Number: 219220198

Status: Underutilized

Reason: Other

Comment: Extensive deterioration.

5 Bldgs., Fort Eustis

Newport News VA 23604

Landholding Agency: Army

Property Number: 219220199-219220203

Status: Unutilized

Reason: Other

Comment: Extensive deterioration.

9 Bldgs.

Radford Army Ammunition Plant

Radford VA 24141

Landholding Agency: Army

Property Number: 219220210-219220218

Status: Unutilized

Reason: Secured Area.

7 Bldgs.

U.S. Army Combined Arms Support
Command

Fort Lee Co: Prince George VA 23801

Landholding Agency: Army

Property Number: 219220312-219220318

Status: Underutilized

Reason: Other

Comment: Extensive deterioration.

Washington

6 Bldgs.

130-228th Street, S.W.

Federal Regional Center (FEMA) Laboratory

Bothell Co: Snohomish WA 98021-

Landholding Agency: Army

Property Number: 219011637, 219011642,

219011644, 219011646-219011647, 219011649

Status: Unutilized

Reason: Secured Area.

Bldg. 209

Yakima Firing Center

Yakima Co: Yakima WA 98901-5000

Location: Exit 26 off 1-82 on Yakima Firing

Center Road

Landholding Agency: Army

Property Number: 219040363

Status: Excess

Reason: Within 2000 ft. of flammable or
explosive material. Secured Area.

Wisconsin

6 Bldgs.

Badger Army Ammunition Plant

Baraboo Co: Sauk WI 53913-

Landholding Agency: Army

Property Number: 219011094, 219011209-

219011212, 219011217

Status: Underutilized

Reason: Within 2000 ft. of flammable or
explosive material. Other environmental.
Secured Area

Comment: Friable asbestos.

154 Bldgs.

Badger Army Ammunition Plant

Baraboo Co: Sauk WI 53913-

Landholding Agency: Army

Property Number: 219011104, 219011106,

219011108-219011113, 219011115-219011117,

219011119-219011120, 219011122-219011139,

219011141-219011142, 219011144,

219011148-219011208, 219011213-219011216,

219011218-219011234, 219011236, 219011238,

219011240, 219011242, 219011244, 219011247,

219011249, 219011251, 219011254, 219011256,

219011259, 219011263, 219011265, 219011268,

219011270, 219011275, 219011277, 219011280,

219011282, 219011284, 219011286, 219011290,

219011293, 219011295, 219011297, 219011300,

219011302, 219011304-219011311, 219011317,

219011319, 219011320-219011321, 219011323

Status: Unutilized

Reason: Within 2000 ft. of flammable or
explosive material. Other environmental.
Secured Area.

Comment: Friable asbestos.

Bldg. P-10111

Fort McCoy

Army Hospital Complex

Sparta Co: Monroe WI 54658-5000

Landholding Agency: Army

Property Number: 219013443

Status: Unutilized

Reason: Other

Comment: Structure is boiler plant for
hospital.

Bldg. 264

Badger Army Ammunition Plant

Bus Station

Baraboo Co: Sauk WI 53913-

Landholding Agency: Army

Property Number: 219013784

Status: Unutilized

Reason: Within 2000 ft. of flammable or
explosive material.

6 Bldgs.

Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913-
Landholding Agency: Army
Property Number: 219013870-219013875
Status: Underutilized
Reason: Secured Area.

5 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913-
Landholding Agency: Army
Property Number: 219013876-219013878,
219030275-219030276
Status: Unutilized
Reason: Secured Area.

Bldgs. 6513-27, 6823-2, 6861-4
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913-
Landholding Agency: Army
Property Number: 219210097-219210099
Status: Unutilized
Reason: Within 2000 ft. of flammable or
explosive material. Secured Area.

13 Bldgs., Fort McCoy
US Hwy. 21
Ft. McCoy Co: Monroe WI 54656-
Landholding Agency: Army
Property Number: 219210103-219210115
Status: Underutilized
Reason: Other
Comment: Extensive deterioration.

17 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913
Landholding Agency: Army
Property Number: 219220295-219220311
Status: Unutilized
Reason: Secured Area.

Land (by State)
Alabama
23 acres and 2284 acres
Alabama Army Ammunition Plant
110 Hwy. 235
Childersburg Co: Talladega AL 35044-
Landholding Agency: Army
Property Number: 219210095-219210096
Status: Excess
Reason: Secured Area.

Alaska
Dike Range
Fort Wainwright
Fort Wainwright Co: Fairbanks AK 99703-
Location: 14 miles south of Fairbanks
Landholding Agency: Army
Property Number: 219014684
Status: Unutilized
Reason: Within 2000 ft. of flammable or
explosive material. Floodway.

Eklutna Mountain & Glacier
Training Site
Fort Richardson Co: Anchorage AK 99505-
Location: 18 miles from Fort Richardson
Landholding Agency: Army
Property Number: 219014788
Status: Unutilized
Reason: Other
Comment: Unexploded ordnance.

Davis Range
Fort Richardson
Fort Richardson Co: Anchorage AK 99505-
Location: SW Portion of Installation
Landholding Agency: Army
Property Number: 219030267

Status: Underutilized
Reason: Secured Area.

Georgia
Facility EH001
Fort Gordon
Augusta Co: Richmond GA 30905-
Location: Located at the Eisenhower Army
Medical Center
Landholding Agency: Army
Property Number: 219014786
Status: Unutilized
Reason: Other
Comment: Heliport—concrete pad.

Illinois
Group 66A
Joliet Army Ammunition Plant
Joliet Co: Will IL 60436-
Landholding Agency: Army
Property Number: 219010414
Status: Unutilized
Reason: Within 2000 ft. of flammable or
explosive material. Secured Area.

Parcel 1
Joliet Army Ammunition Plant
Joliet Co: Will IL 60436-
Location: South of the 811 Magazine Area,
adjacent to the River Road.
Landholding Agency: Army
Property Number: 219012810
Status: Excess
Reason: Within 2000 ft. of flammable or
explosive material. Floodway.

Parcel No. 2, 3
Joliet Army Ammunition Plant
Joliet Co: Will IL 60436-
Landholding Agency: Army
Property Number: 219013796-219013797
Status: Underutilized
Reason: Within 2000 ft. of flammable or
explosive material. Floodway.

Parcel No. 4, 5, 6
Joliet Army Ammunition Plant
Joliet Co: Will IL 60436-
Landholding Agency: Army
Property Number: 219013798-219013800
Status: Unutilized
Reason: Within 2000 ft. of flammable or
explosive material. Floodway.

Homewood USAR Center
18760 S. Halsted Street
Homewood Co: Cook IL 60430-
Landholding Agency: Army
Property Number: 219014067
Status: Underutilized
Reason: Secured Area.

Indiana
Newport Army Ammunition Plant
East of 14th St. & North of S. Blvd.
Newport Co: Vermillion IN 47986-
Landholding Agency: Army
Property Number: 219012360
Status: Unutilized
Reason: Within 2000 ft. of flammable or
explosive material. Secured Area.

Louisiana

Land
Louisiana Army Ammunition Plant
Doyline Co: Webster LA
Landholding Agency: Army
Property Number: 219013923
Status: Unutilized

Reason: Other.
Comment: Barrow pit, predominately under
water.

Maryland

Carroll Island, Graces Quarters
Aberdeen Proving Ground
Edgewood Area
Aberdeen City Co: Harford MD 21010-5425
Landholding Agency: Army
Property Number: 219012630, 219012632
Status: Underutilized
Reason: Floodway. Secured Area.

Nebraska

Land

Cornhusker Army Ammunition Plant
Potash Road
Grand Island Co: Hall NE 68802-
Location: 4 miles west of Grand Island.
Landholding Agency: Army
Property Number: 219013785
Status: Underutilized
Reason: Floodway.

New Jersey

Land

Armament Research Development & Eng.
Center
Route 15 North
Picatinny Arsenal Co: Morris NJ 07806-
Landholding Agency: Army
Property Number: 219013788
Status: Unutilized
Reason: Secured Area.

New York

Watervliet Arsenal
Watervliet Co: Albany NY 12189-4050
Location: East of Main Arsenal Reservation.
Landholding Agency: Army
Property Number: 219012508
Status: Excess
Reason: Other
Comment: Easement to N.Y. State, 6-lane
highway construction.

Oklahoma

McAlester Army Ammo. Plant
McAlester Co: Pittsburg OK 74501-5000
Location: 10 miles south of McAlester OK
Landholding Agency: Army
Property Number: 219011671
Status: Unutilized
Reason: Within 2000 ft. of flammable or
explosive material.

McAlester Army Ammo. Plant
McAlester Army Ammunition Plant
McAlester Co: Pittsburg OK 74501-
Landholding Agency: Army
Property Number: 219014603
Status: Underutilized
Reason: Within 2000 ft. of flammable or
explosive material.

Pennsylvania

Lickdale Railroad
Fort Indiantown Gap
Lickdale Co: Lebanon PA 17038-
Landholding Agency: Army
Property Number: 219012359
Status: Excess
Reason: Floodway.

Tennessee**Land**

Volunteer Army Ammunition Plant
Chattanooga Co: Hamilton TN
Landholding Agency: Army
Property Number: 219013791
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material. Secured Area.

Volunteer Army Ammo. Plant
Chattanooga Co: Hamilton TN
Location: Area around VAAP—outside fence in buffer zone.
Landholding Agency: Army
Property Number: 219013880
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Secured Area.

Virginia

Fort Belvoir Military Reservation—5.6 Acres
South Post located West of Pohick Road
Fort Belvoir Co: Fairfax VA 22060—
Location: Rightside of King Road
Landholding Agency: Army
Property Number: 219012550
Status: Unutilized
Reason: Within airport runway clear zone.
Secured Area
Comment: 5.6 acres.

Wisconsin**Land**

Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913—
Location: Vacant land within plant boundaries.
Landholding Agency: Army
Property Number: 219013783
Status: Unutilized
Reason: Secured Area.
[FR Doc. 92-12509 Filed 5-28-92; 8:45 am]
BILLING CODE 4210-29-M

[Docket No. I-92-161]

Intended Environmental Impact Statement New Southwest Middle School Project, Rochester, NY

The Department of Housing and Urban Development gives notice that the City of Rochester, NY intends to prepare an Environmental Impact Statement (EIS) for the construction of a new Southwest Middle School.

The proposed project is the new construction of one public middle school to house approximately 1,000 pupils in grades 6 through 8. The new school will be located in the City's southwest quadrant. A 1994 construction start is anticipated with occupancy by Fall, 1996.

Federal funding for the project is expected to be from the Community Development Block Grant Program. The project cost is estimated at \$27 million.

The decision to prepare an EIS has been based upon the project's potential impacts upon traffic, open space and

neighborhood character. The project may also result in the displacement of existing occupants. The preferred site and an alternate site require further evaluation to assess past waste disposal activity. It is also the policy of the New York State Department of Education to require the preparation of an EIS for all new schools.

Alternatives being considered include:

1. No action;
 2. Preferred site;
 3. Alternative location in other areas of the southwest;
 4. Alternative site and configuration of preferred site; and
 5. Appropriate mitigation measures.
- Responses to this notice will be used to:

1. Determine significant environmental issues;
2. Identify data which the EIS should address; and
3. Identify agencies and other parties which will participate in the EIS process and the basis for their involvement.

This notice is in accordance with regulations of the Council on Environmental Quality under its rule (40 CFR part 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit, within fifteen days of this publication, information and comments concerning the project to Dorraine M. Car, Bureau of Planning, City Hall, room 010-A, 30 Church Street, Rochester, New York 14614, Telephone (716) 428-6924.

Particularly solicited is information on reports or other environmental studies planned or completed in the project area, major issues and data which the EIS should consider and recommended mitigating measures and alternatives associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interest should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

This notice shall be effective for 1 year. If 1 year after the publication of the notice in the *Federal Register* a Draft EIS has not been filed on a project, then the notice for that project shall be cancelled. If a draft EIS is expected more than 1 year after the publication of the notice in the *Federal Register* then a new and updated notice of intent will be published.

Dated: May 26, 1992.

Richard H. Broun,
Director, Office of Environment and Energy.
[FR Doc. 92-12691 Filed 5-28-92; 8:45am]

BILLING CODE 4210-29-M

[Docket No. N-92-3439; FR-3289-N-02]

NOFA for Fair Housing Initiatives Program; Major Testing Project on Mortgage Lending Practices Competitive Solicitation

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of extension of time for submission of applications.

DATES: The application due date originally announced for July 17, 1992 is extended by this notice to July 20, 1992.

SUMMARY: On May 18, 1992, HUD published a Notice of Funding Availability (NOFA) that provides up to \$1 million in funding to conduct a major testing project on mortgage lending practices under the Private Enforcement Initiative of the Fair Housing Initiatives Program (FHIP). The NOFA requested applications by July 17, 1992. The purpose of this Notice is to extend the time for submission of applications until July 20, 1992.

FOR FURTHER INFORMATION CONTACT:

Marcella Brown, Director, Funded Programs Division, Office of the Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-2000. Telephone number (202) 708-3214. Hearing or speech-impaired persons may use the Telecommunications Devices for the Deaf (TDD) on 202-708-1425 for information on the program. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: A FY 1992 Notice of Funding Availability (NOFA) to solicit applications that will identify specific unlawful discriminatory acts or practices that prevent and/or impede racial and national origin minorities from obtaining financing for the purchase of real property was published on May 18, 1992 (57 FR 18774). The NOFA makes up to \$1 million in FHIP funds available for this purpose and provides until July 17, 1992 for applications to be submitted. Because the application kit for funding cited in the NOFA was not available until May 19, 1992, the day following publication of the NOFA in the *Federal Register*, the Department has determined to extend the application due date to give applicants at least 60 days from the availability of the application kit in which to prepare and submit applications.

Applications will now be due on or before 4 PM on Monday, July 20, 1992. Completed applications are to be

submitted to Aztec Jacobs, Funded Programs Division, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. This application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. It is not sufficient for an application to bear a postage date within the submission time period. Applications submitted by facsimile are not acceptable. Applications received after the deadline will not be considered.

Dated: May 21, 1992.

Leonora L. Guarraia,
General Deputy Assistant Secretary for Fair
Housing and Equal Opportunity.

[FR Doc. 92-12600 Filed 5-28-92; 8:45 am]

BILLING CODE 4210-28-M

[Docket No. N-92-3195; FR-2957-N-02]

RIN: 2501-AB05

**HOPE for Elderly Independence
Program Guidelines; Amendments to
Application Submission and
Processing Requirements**

AGENCY: Office of the Assistant
Secretary for Public and Indian Housing,
HUD.

ACTION: Program Guidelines; notice of
amendments.

SUMMARY: On February 4, 1991 (56 FR 4506), the Department published guidelines to implement the HOPE for Elderly Independence Demonstration Program (Elderly Independence demonstration). The purpose of this five-year demonstration is to test the effectiveness of combining tenant-based rental housing certificates and rental vouchers with supportive services to assist frail elderly people living in the general community who are not receiving rental subsidies and who currently require this combined assistance to remain living independently, and to avoid premature or unnecessary institutionalization.

This document amends the Elderly Independence Guidelines to remove the list of application submission requirements and the procedures applicable to HUD's review and processing of applications, and to provide that this information, which is

solely applicable to funding under this program, will be incorporated in the notice of funding availability (NOFA) that will be published in each Federal Fiscal Year (FY) in which funds are appropriated for this program. By maintaining this information in the NOFA, as opposed to the Guidelines, applicants will have the information that they need to prepare and submit their applications for funding under this program, immediately and conveniently available to them in the published NOFA document. This information also will be available in the application kit, which is prepared for each NOFA, and which is made available to applicants at the time of publication of the NOFA. The application kits, which contain the appropriate application forms, may be obtained by contacting the local HUD Field Office/Indian Program Office. While the application kit does not contain any information that is not in the NOFA, some PHAs/IHAs may prefer the information in a package separate from the NOFA.

The Department believes that this revision to the Guidelines will simplify and facilitate the funding process for this program. The specific amendments to be made by this document are discussed in the Supplementary Information section of this document.

EFFECTIVE DATE: May 29, 1992.

FOR FURTHER INFORMATION CONTACT:
Gerald J. Benoit, Director, Rental Assistance Division, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000, telephone number (202) 708-0477. Hearing or speech impaired individuals may call HUD's TDD number (202) 708-4594. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. OMB has approved the Section 8 information collection requirements under the assigned control number 2577-0123; OMB has approved the supportive services information collection requirements under the assigned control number 2577-0154.

II. Background

The HOPE for Elderly Independence Demonstration Program (Elderly Independence Demonstration) is authorized by Section 803 of the National Affordable Housing Act (Pub.

L. 101-625, approved November 28, 1990). (HOPE is an acronym for Homeownership and Opportunity for People Everywhere.) The purpose of this five-year demonstration program is to test the effectiveness of combining rental certificates and rental vouchers with supportive services for frail elderly persons living in the community who are eligible for Section 8 assistance, but who are not currently receiving any form of housing assistance.

On February 4, 1991 (56 FR 4506), the Department published guidelines to implement the Elderly Independence Demonstration. Although, no funds were appropriated for the Elderly Independence Demonstration in Fiscal Year (FY) 1991, funds have been appropriated for this demonstration in FY 1992. By separate notice, a Notice of Funding Availability (NOFA), published elsewhere in today's edition of the Federal Register, the Department will make available up to \$34,158,147 of the budget authority approved in the HUD-Independent Agencies Appropriations Act of 1992 (Pub. L. 102-139, approved October 28, 1991). The Appropriations Act also provided \$10,000,000 for supportive grants.

In preparing the NOFA for the Elderly Independence Demonstration, the Department reviewed the application submission and processing requirements and determined that some of these requirements were inconsistent with the application submission and processing requirements of other HUD Section 8 assistance programs, and that some of the application requirements were burdensome. The Department also determined that some of the application review and processing procedures were not consistent with the requirements of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act).

This document therefore amends the Elderly Independence Guidelines to provide that the application submission and processing requirements and procedures will be incorporated in the NOFA that will be published in the Federal Register during each Federal Fiscal Year in which funds are appropriated for this program. This revision ensures that the application submission requirements are in conformance with the current statutory and regulatory requirements applicable to this program, and are consistent with the requirements of other HUD Section 8 programs. This revision also ensures that the Department's review and processing procedures are consistent with current statutory and regulatory requirements.

III. Amendments to Guidelines

The amendments made to the Elderly Independence Program Guidelines are as follows:

Section VI. Assessment/Case Management Process

Paragraph (A) of Section VI addresses the qualifications and duties and responsibilities of the service coordinator, and required PHAs/IHAs that propose to contract out to a third party agency for a service coordinator to submit a copy of the contract in the application. This requirement is removed. The Department has determined that the terms of this contract are a matter between the PHA/IHA and the agency, and therefore, it is not necessary for the Department to review this document.

Paragraph (B) of Section VI addresses the role of the Professional Assessment Committee (PAC), and required a PHA/IHA that chooses to develop an agreement with a community agency to do assessments as an alternative to setting up its own PAC, to submit the letter of understanding between the community agency and the PHA/IHA. This requirement is removed. As with the preceding requirement, the Department believes that the terms of this agreement are a matter between the PHA/IHA and the community agency.

Section VII. Community Involvement

This section addresses the PHA's/IHA's responsibility to involve the appropriate area agency on aging in the Demonstration, and required that if a PHA/IHA proposes to form an advisory committee, the PHA/IHA must describe the committee's roles and functions in the application. This requirement is revised by this document to provide that this description must be included in the Section 8 administrative plan after execution of the Annual Contributions Contract.

Section XV. Application Requirements

This section sets forth the minimum information that must be contained in an application for funding under the Elderly Independence Demonstration. This document is revised to reference that the NOFA that will be published in the Federal Register during each Federal Fiscal Year in which funds are appropriated for the Elderly Independence Demonstration will set forth the information that must be contained in the application. The Department believes that this revision will make the application process easier for applicants because applicants will have the information that they need to

prepare and submit their applications for funding under this program, immediately and conveniently available to them in the published NOFA document. This information also will be available in the application kit, which is prepared for each NOFA, and which is made available to applicants at the time of publication of the NOFA. The application kits, which contain the appropriate application forms, may be obtained by contacting the local HUD Field Office/Indian Program Office. While the application kit does not contain any information that is not in the NOFA, some PHAs/IHAs may prefer the information in a package separate from the NOFA.

Additionally, this revision permits the Department to ensure that each year, the application requirements for all Section 8 programs, including this one, are consistent with another, and permits the Department to simplify and clarify application requirements that applicants may have found confusing during the previous year's funding round.

Section XVI. Application Processing and Selection

This section is revised to reference that the NOFA that will be published in the Federal Register during each Federal Fiscal Year in which funds are appropriated for the Elderly Independence Demonstration will contain the application processing and selection criteria. This revision ensures that the application processing and selection procedures are in conformance with recent statutory requirements (as for example, the requirements imposed on HUD by the HUD Reform Act), and that the individuals and offices to be contacted for further information or assistance are the current individuals and offices charged with the responsibility to provide information and assistance.

Section XVII. Announcement of Awards

This section is revised to state that the announcement of funding awards made under this demonstration will be in conformance with the HUD Reform Act and the regulations issued thereunder.

IV. Other Matters

Regulatory Impact

This notice does not constitute a major rule as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the notice indicates that it would not (1) have an annual effect on the economy of \$100 million or more; (2)

cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions, or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this notice before publication and by approving it certifies that this notice would not have a significant economic impact on a substantial number of small entities. This notice makes certain amendments to the Guidelines that govern the procedures under which HUD would make housing assistance available to applicants under the Elderly Independence Demonstration, a demonstration program designed to house and provide supportive services to frail elderly persons. The amendments made to the guidelines by this notice are limited to simplifying the application submission and processing requirements of the guidelines.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with the Department's regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW, Washington, DC 20410.

Family Impact

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this notice does not have the potential for significant impact on family formation, maintenance, and general well-being. No significant change is made to the Elderly Independence Demonstration Program by this notice which would impact on the program's provisions that relate to family concerns.

Federalism Impact

The General Counsel, as the Designated Official under Section 6(a) of the Executive Order 12612, Federalism, has determined that the policies

contained in this notice do not have Federalism implications, and, thus, are not subject to review under the order. The notice is limited to amending the application submission and processing requirements of a demonstration program designed to provide housing assistance and supportive services to frail elderly individuals.

Accordingly, the HOPE for Elderly Independence Program Guidelines (FR Doc. 91-2402), published on February 4, 1991 at 56 FR 4506 are amended as follows:

VI. Assessment/Case Management Process [Amended]

1. On page 4512, in the first column, under the heading "A. Service Coordinators," the first sentence of the second paragraph is removed.

2. On page 4513, in the first column, under the heading "B. Professional Assessment Committee," the second paragraph is revised to read as follows:

B. Professional Assessment Committee

The PAC (or a community agency with which the PHA has a written agreement to do assessments and which provides such services for low income elderly in the general community) will assess the degree of frailty of elderly persons applying for the Elderly Independence demonstration, referred to by the PHA. PHAs may develop an agreement with community agencies to do such assessments as an alternative to doing its own screening for frailty and setting up its own PAC. Such an agreement would include a letter of understanding between the PHA and the community aging center stating the roles, responsibilities and relationship of each to each other. It also must be signed by the executive officer(s) of both organizations. Such local agencies may include, but are not limited to: Geriatric Assessment Centers, Public Health and Veterans Administration facilities, County Health Departments, or similar private agencies.

VII. Community Involvement [Amended]

3. On page 4514, in the first column, the second paragraph under the heading "VII. Community Involvement" is revised to read as follows:

VII. Community Involvement

HUD encourages each PHA to also propose formation of an advisory committee involving the Area Agency on Aging and other outside agencies, including service providers. An advisory committee can be instrumental in

insuring that ongoing operations lead to the most effective and efficient delivery of supportive services to the program participants. If an advisory committee is established, HUD recommends that it contains at least 5 members, including one from the Area Agency on Aging, and that all members have familiarity with the aging process, "aging-in-place" and the needs of frail elderly. If the PHA proposes to form such an advisory committee, the PHA must include a description of the committee's roles and functions in the Section 8 administrative plan after ACC execution.

XV. Application Requirements [Amended]

4. On pages 4516-4517, Section XV is revised to read as follows:

XV. Application Requirements

During each Federal Fiscal Year in which funding is appropriated for the Elderly Independence demonstration, HUD will publish a Notice of Funds Availability (NOFA) in the *Federal Register* containing the amounts of funds available, where to obtain applications forms and application kits, where to submit applications, and the deadline for submissions of applications. The NOFA also shall set forth the information that must be included in the applications.

XVI. Application Processing and Selection [Amended]

5. On page 4517, Section XVI is revised to read as follows:

XVI. Application Processing and Selection

During each Federal Fiscal Year in which funding is appropriated for the Elderly Independence demonstration, HUD will publish a Notice of Funds Availability (NOFA) in the *Federal Register* containing the amounts of funds available, where to obtain application forms and application kits, where to submit applications, and the deadline for submissions of applications. The NOFA also shall contain information on application processing and the selection criteria. The application processing will be in conformance with the applicable provisions of the Department of Housing and Urban Development Reform Act of 1989 and the regulations issued thereunder.

XVII. Announcement of Awards [Amended]

6. On page 4517, Section XVII is revised to read as follows:

XVII. Announcement of Awards

The announcement of funding awards made under the Elderly Independence demonstration will be made in conformance with the applicable provisions of the Department of Housing and Urban Development Reform Act of 1989 and the regulations issued thereunder.

Dated: May 21, 1992.

Joseph G. Schiff,
Assistant Secretary for Public and Indian Housing.

[FR Doc. 92-12601 Filed 5-28-92; 8:45 am]

BILLING CODE 4210-33-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-060-02-4130-09]

Proposed Amendment to the Mining Plan of Operation for Open Pit Mining, Baltic Mine, Kern County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of draft Baltic Mine Plan of operation environmental impact statement.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, a draft Environmental Impact Statement has been prepared for the Baltic Project, an amendment to an approved heap-leach, open pit mining operation in the California Desert Conservation Area, Kern County, California. The proposed action is located in the Stringer Mining District, approximately one mile south of Randsburg, California. This document has been prepared as a joint Environmental Impact Statement/Environmental Impact Report in cooperation with the County of Kern, to meet the requirements of the National Environmental Policy Act and the California Environmental Quality Act.

Reading copies will be available at Kern County Planning Department, Kern County Library (Ridgecrest Branch) and at the following locations:

Bureau of Land Management, California Desert District, 6221 Box Springs Road, Riverside, CA 92507,
Bureau of Land Management, Ridgecrest Resource Area, 300 South Richmond Road, Ridgecrest, CA 93555

Written comments on the draft must be delivered or postmarked no later than July 28, 1992. Oral and/or written comments may also be presented at the public meeting to be held June 30, 1992

at 7 p.m., Johannesburg Community Center, U.S. Highway 395, Johannesburg, California.

ADDRESSES: Written comments should be addressed to: Lee Delaney, Area Manager, Bureau of Land Management, 300 South Richmond Road, Ridgecrest, CA. Written comments submitted to Kern County by July 28, 1992, need not be resubmitted.

FOR FURTHER INFORMATION CONTACT: Peter Milne, Project Manager, or Joe Liebhauser, Environmental Coordinator, at the above address; telephone (819) 375-7125.

SUPPLEMENTARY INFORMATION: The draft EIS/EIR analyzes the direct, indirect, and cumulative impacts to the human environment stemming from a mining plan of operation amendment proposing to conduct open pit mining and cyanide heap leach processing. The proposed action is surface mining and cyanide heap leach processing of up to 18 million tons of ore and waste on 200 acres of combined public and private land within a 532 acre project area. Alternatives include the processing of ore in a closed vat leach circuit, and no action. Issues addressed in the Draft EIS/EIR include threatened and endangered species, air and water quality, socio-economics, cultural resources, and others.

Public participation has occurred throughout the analysis process. A Notice of Intent was published in the *Federal Register* in January, 1992. A public scoping meeting was held, and coordination among agencies has been ongoing. All comments received have been evaluated and considered.

Lee Delaney,
Area Manager.

[FR Doc. 92-11978 Filed 5-28-92; 8:45 am]

BILLING CODE 4310-40-M

[AZ-050-02-4212-14; AZA 25294]

Arizona; La Paz County Realty Action for the Noncompetitive Sale of Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management has determined that the following described lands are suitable for direct sale under sections 203 and 209 of the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579, 90 Statute 2750; Title 43, United States Code, Section 1713), at not less than the estimated fair market value of \$165,000.

Gila and Salt River Meridian, Arizona
T. 4 N., R. 19 W.,

Sec. 4, S½SE¼;

Sec. 9, N½NE¼, SE¼NE¼, N½NE¼SE¼.

The area described contains 220 acres, more or less.

DATES: Comments regarding the proposed sale of the lands must be submitted by July 13, 1992, to Resource Area Manager Michael A. Taylor, Bureau of Land Management, Yuma Resource Area, 3150 Winsor Avenue, Yuma, Arizona 85365. Any adverse comments will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of objection, this proposed realty action will become final.

The lands will not be offered for sale until July 28, 1992.

On May 29, 1992, the public lands described above shall be segregated from all forms of appropriation under the public land laws, including the mining laws. The segregative effect will end upon issuance of the patent or February 15, 1993, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: Resource Area Manager Michael A. Taylor, Bureau of Land Management, Yuma Resource Area, 3150 Winsor Avenue, Yuma, Arizona 85365, Telephone (602) 726-6300. Detailed information concerning this action is also available for review.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management proposes to sell the surface and subsurface estates of the above-described lands to the town of Quartzsite. The land would be used for a wastewater treatment facility and jail site.

Conveyance of the available mineral interests will occur simultaneously with the sale of the land. The mineral interests being offered for conveyance have no known mineral value. Acceptance of a direct sale offer will constitute an application for conveyance of those mineral interests. The applicant will be required to pay a \$50 nonrefundable filing fee for conveyance of the available mineral interests.

The proposed direct noncompetitive sale to the town of Quartzsite is consistent with the Yuma District Resource Management Plan.

The patent, when issued, will contain the following terms, conditions, and reservations:

1. Reservation to the United States of a right-of-way for ditches and canals pursuant to the Act of August 30, 1890, Title 43, United States Code, Section 945.

2. Subject to AZPHX 083964, Arizona State Highway Department, Arizona Highway 95 right-of-way.

3. Cattle-proof the entire north, west, and south perimeters of the 220-acre area with barbed wire fence to prevent livestock from roaming onto Highway 95. The fence should connect with the existing Highway 95 fence.

Dated: May 19, 1992.

Bill D. Watters,

Acting District Manager.

[FR Doc. 92-12577 Filed 5-28-92; 8:45 am]

BILLING CODE 4310-32-M

Fish and Wildlife Service

Availability of Draft Maps of Washington Areas Under Consideration for Inclusion in the Coastal Barrier Resources System

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of section 6 of the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3503), the Secretary of the Interior is required to provide to Congress maps identifying the boundaries of those undeveloped coastal barriers of the United States bordering the Pacific Ocean south of 49 degrees north latitude which the Secretary and the appropriate Governor consider to be appropriate for inclusion in the System.

Recommendations made by the Secretary will be advisory only; any changes to the System will require an act of Congress. This notice is to announce the availability of draft Washington maps with supporting delineation criteria and a report to Congress for public review and comments.

DATES: Comments should be received no later than August 31, 1992.

ADDRESSES: H. Dale Hall, Assistant Regional Director-Fish and Wildlife Enhancement, U.S. Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232-4181.

FOR FURTHER INFORMATION CONTACT: Dennis D. Peters, Fish and Wildlife Enhancement, U.S. Fish and Wildlife Service, 911 N.E. 11th Avenue, Portland, Oregon 97232-4181, (503) 231-6154.

SUPPLEMENTARY INFORMATION: On October 18, 1982, President Reagan signed the Coastal Barrier Resources Act (CBRA) into law (Pub. L. 97-348). Section 4 of CBRA establishes the Coastal Barrier Resources System as referred to and adopted by Congress, and sections 5 and 6 prohibit all new Federal expenditures and financial assistance within the units of that

System unless specifically excepted by the Act. These provisions of the Act became effective immediately. The statutory ban on the sale of new Federal flood insurance for new construction or substantial improvements within the System went into effect on October 1, 1983.

On November 16, 1990, President Bush signed the Coastal Barrier Improvement Act of 1990 (CBIA). Section 6 of the CBIA directs the Secretary of the Interior to prepare a study which examines the need for protecting undeveloped coastal barriers along the Pacific coast of the United States and to prepare maps identifying undeveloped coastal barriers bordering the Pacific Ocean south of 49 degrees north latitude which the Secretary and the appropriate Governor consider to be appropriate for inclusion in the System. In addition, Congress has directed the Secretary to prepare a report which examines the need for protecting undeveloped coastal barriers along the Pacific coast.

An existing 1988 report, *Report to Congress: Coastal Barrier Resources System, Coastal Barriers of the Pacific Coast: Summary Report*, by Dr. Joel W. Hedgpeth, will be reviewed and revised as necessary.

The criteria used to map the undeveloped coastal barriers along the Pacific coast are described in this notice. Draft maps, as well as the report, will be provided upon request (See Address provided above). The original maps may be inspected at, and hand delivered comments may be taken to, Regional Office, U.S. Fish and Wildlife Service, 911 N.E. 11th Avenue, 4th Floor East, Portland, Oregon. Copies of the original maps may be inspected, during normal business hours, at the Washington Department of Ecology Shorelands Program, Baran Hall (P.O. Box 47600) St. Martins College Campus, Olympia, Washington 98504-7600, (206) 459-6784, and the Olympia Field Office, U.S. Fish and Wildlife Service, 3704 Griffin Lane SE, Suite 102, Olympia, Washington 98501-2192, (206) 753-9440.

Definition of Coastal Barriers for Purposes of the Study

This section presents a statement of definitions used to identify undeveloped coastal barriers for purposes of the Report to Congress required by section 6 of the CBIA. The study's definition is based on guidance provided by section 3(1) of CBRA.

A. General Definition

Based on the definition of a coastal barrier contained in section 3(1) of the CBRA, a coastal barrier is a depositional geologic feature (such as a

bay barrier, tombolo, barrier spit, or barrier island) that:

- Is subject to wave, tidal, and wind energies, and
- Protects landward aquatic habitats including adjacent wetlands, marshes, estuaries, inlets, and nearshore waters.

B. Types of Coastal Barriers

Coastal barriers may be described generally, as in the CBRA definition, with respect to their relationship to the mainland as bay barriers, tombolos, barrier spits, and barrier islands. The "mainland" includes the continental landmass as well as large islands. The accepted scientific classification is:

1. Bay Barriers—coastal barriers that connect two headlands, and enclose a pond, marsh, or other aquatic habitat.
2. Tombolos—sand or gravel beaches that connect one or more offshore islands to each other or to the mainland.
3. Barrier Spits—coastal barriers that extend into open water and are attached to the mainland at only one end. The can develop into bay barriers if they grow completely across a bay or other aquatic habitat. On the other hand, bay barriers can become spits if an inlet is created.
4. Barrier Islands—coastal barriers completely detached from the mainland. Barrier spits may become barrier islands if their connection to the mainland is severed by creation of a permanent inlet. The barrier island represents a broadened barrier beach, commonly sufficiently above high tide to have dunes, vegetated zones, and wetland areas.

C. Composition of Coastal Barriers

Generally, coastal barriers consist entirely of unconsolidated sediment, composed of sand or gravel, but sometimes include silt, cobbles, or large rocks.

D. Factors that Shape Coastal Barriers

Wind, waves, and tides are the immediate forces that maintain and modify coastal barriers. The action of wind, wave (directly and by creating littoral, onshore-offshore or other currents), and tidal energy on unconsolidated sedimentary materials generally results in continuous linear or curvilinear features—a beach ridge or berm located along the unprotected side of the coastal barrier.

Where a suitable sediment source and sufficient wind, wave and tidal energy exist, secondary coastal barriers occasionally develop on the mainland side of large bays or lagoons behind coastal barrier systems. These

secondary coastal barriers are included in the inventory.

E. Associated Aquatic Habitat

Associated aquatic habitat includes adjacent wetlands, marshes, estuaries, inlets, and nearshore waters.

Definition of "Undeveloped"

A coastal barrier is considered undeveloped if it contains less than one (1) structure per five (5) acres that is "roofed and walled" and covers at least 200 square feet and constructed in conformance with Federal, State, or local legal requirements. However, units containing fewer than roughly one structure per five acres of fastland, can be considered developed when geomorphic and ecological process are altered to the extent that the long-term perpetuation of the coastal barrier is threatened by one or more of the following:

- (a) Extensive shoreline manipulation or stabilization;
- (b) Pervasive canal construction and maintenance;
- (c) Major dredging projects and resulting sedimentary deposits;
- (d) Intensive capitalization development projects which effectively establish a commitment to stabilize an area, even though there are few actual structures.

The Act does not require an entire coastal barrier to be included, and specifically allows for inclusion of undeveloped portions of coastal barriers. An undeveloped portion of a coastal barrier is included if there exists a minimum of approximately one-quarter mile of shoreline on the unprotected (seaward) side of the coastal barrier. Each unit must include an undeveloped area extending through the fastland from the beach to the associated landward aquatic habitat, and must independently satisfy the definitional criteria in section 3(1)(A) of the Act.

Delineation of Coastal Barrier Units

Undeveloped coastal barriers of at least one-quarter mile in shoreline length and their associated aquatic habitats were delineated using several different scales of color-infrared aerial photography, U.S. Fish and Wildlife Service National Wetlands Inventory maps and U.S. Geological Survey 7.5' quadrangle maps.

A. Delineation of the Landward Boundary

The coastal barrier unit boundary is a line drawn perpendicular to the unprotected (seaward) side of the

fastland and extends landward to include the associated aquatic habitat. For partially developed coastal barriers, the boundary was drawn at the edge of the development. The entire associated aquatic habitat was included in cases where the coastal barrier is 50 percent or more undeveloped, as determined by the perpendicular projection of developed versus undeveloped portions of the unprotected shoreline. Isolated clusters of approximately 10 or more structures were excluded from units where the impact of the development on geological and ecological processes is local and confined primarily to the fastland on which the structures are located. A boundary is drawn around the cluster of development to exclude it from the unit.

The landward boundary is a continuous line that follows the interface between the aquatic habitat

and the mainland. In areas with aquatic habitats extending for many miles inland, geologic features such as the next dune line or natural constrictions in aquatic habitats and man-made features such as highways, dikes and levees were used to determine landward boundaries. In addition the landward boundary was normally drawn not to exceed an elevation of 20 feet above the mean high water level of the system. The maximum extent of the landward boundary was 5 miles for wetlands (exposed or vegetated portions of bays, freshwater wetlands) and was measured from the high water line on the unprotected (seaward) side of the coastal barrier. For open water (subtidal bays, large lakes) the maximum landward extent was one mile and was measured either from the farthest landward extent of wetlands on the protected side of the barrier or from the

mean high water line on the unprotected side of the barrier.

B. Delineation of Seaward Side

The unit contains the entire sand-sharing system, including the beach, shoreface, and offshore bars. The sand-sharing system of coastal barriers is normally defined by the 30-foot bathymetric contour. In large coastal embayments (e.g., Puget Sound), the sand-sharing system is more limited in extent. In these cases, the sand-sharing system is defined by the 20-foot bathymetric contour or a line approximately one mile seaward of the shoreline, whichever is nearer the coastal barrier.

Appendix A—Proposed Washington Coastal Barrier Resources System Units

WASHINGTON COASTAL BARRIERS RESOURCES ACT

| County | Unit No. | Unit name | Approximate unit location | Quadrangle map name ¹ |
|-----------|----------|-------------------------------|---------------------------------|----------------------------------|
| Whatcom | WA-01-91 | Semiahmoo Spit/Drayton Harbor | Blaine | Birch Point. |
| Whatcom | WA-02-91 | Portage Bay | Portage Island | Lummi Island/Eliza Island. |
| Whatcom | WA-03-91 | Portage Island | Portage Island | Lummi Island/Eliza Island. |
| Skagit | WA-04-91 | Sinclair Island | North end Sinclair Island | Lummi Island/Eliza Island. |
| Island | WA-05-91 | Waldron Island | Waldron Island | Waldron Island. |
| Island | WA-06-91 | Henry Island/Nelson Bay | Henry Island | Roche Harbor. |
| Island | WA-07-91 | Fisherman Bay North | Lopez Island | Shaw Island. |
| Island | WA-08-91 | fisherman Bay South | Lopez Island | Shaw Island. |
| Island | WA-09-91 | Low Point | Griffin Bay/San Juan Island | False Bay. |
| Island | WA-10-91 | San Juan Island South | Griffin Bay/San Juan Island | Richardson. |
| Island | WA-11-91 | Mud Bay/Shoal Bight | Lopez Island | Lopez Island. |
| Island | WA-12-91 | Spencer Spit | Lopez Island | Blakely Island. |
| Island | WA-13-91 | Decatur Head | Decatur Island | Blakely Island. |
| Island | WA-14-91 | Guemes Island | Guemes Island | Cypress. |
| Skagit | WA-15-91 | Padilla Bay | South end Padilla Bay | La Conner. |
| Skagit | WA-16-91 | Turners Bay | Fidalgo Island | Anacortes South. |
| Island | WA-17-91 | Ben Ure Spit | North end Whidbey Island | Anacortes South. |
| Island | WA-18-91 | Cranberry Lake | Northwest end of Whidbey Island | Deception Pass. |
| Island | WA-19-91 | South of Cranberry Lake | Northwest end of Whidbey Island | Deception Pass. |
| Island | WA-20-91 | Arrowhead Beach | North end of Camano Island | Utsalady. |
| Island | WA-21-91 | Poinell Point | Northeast side Whidbey Island | Crescent Harbor. |
| Island | WA-22-91 | Crescent Harbor Area | Northeast side Whidbey Island | Crescent Harbor. |
| Island | WA-23-91 | Oak Harbor Area | Oak Harbor | Oak Harbor. |
| Island | WA-24-91 | Whidbey Island NW | Northwest side Whidbey Island | Oak Harbor. |
| Island | WA-25-91 | Whidbey Island SW | Near Admiralty Inlet | Coupeville. |
| Island | WA-26-91 | Crockett Lake | Near Admiralty Inlet | Coupeville. |
| Island | WA-27-91 | Race Lagoon | East side Whidbey Island | Camano. |
| Island | WA-28-91 | Whidbey Island east | East side Whidbey Island | Camano. |
| Island | WA-29-91 | Lake Hancock | West side Whidbey Island | Freeland. |
| Island | WA-30-91 | Useless Bay Area | Southwest side Whidbey Island | Maxwelton. |
| Island | WA-31-91 | Cultus Bay | South end Whidbey Island | Maxwelton. |
| Kitsap | WA-32-91 | Port Madison Area | 4 miles E Suquamish | Shilshole Bay. |
| Kitsap | WA-33-91 | Battle Point | West side Bainbridge Island | Suquamish. |
| King | WA-34-91 | Point Hoyer | East side Vashon Island | Vashon. |
| Pierce | WA-35-91 | McNeil Island | East side McNeil Island | McNeil Island. |
| Mason | WA-36-91 | Squaxin Island | South end Squaxin Island | Squaxin Island. |
| Mason | WA-37-91 | Buffingtons Lagoon | East side Hartstene Island | Longbranch. |
| Pierce | WA-38-91 | Vaughn Bay | Vaughn | Vaughn. |
| Pierce | WA-39-91 | Henderson Bay Area | 3 miles SW Purdy | Fox Island. |
| Kitsap | WA-40-91 | Stavis Bay | 1 mile W Seabeck | Seabeck. |
| Jefferson | WA-41-91 | Zelatched Point | West side Toandos Peninsula | Seabeck. |
| Jefferson | WA-42-91 | Tarboe Bay | North end Dabob Bay | Quilcene. |
| Jefferson | WA-43-91 | Toandos Peninsula east | East side Toandos Peninsula | Lofall. |
| Jefferson | WA-44-91 | Thorndyke Bay | East side Toandos Peninsula | Lofall. |
| Kitsap | WA-45-91 | Point Julio | Port Gamble | Port Gamble. |
| Jefferson | WA-46-91 | Bywater Bay | Hood Head | Hansville/Port Ludlow. |
| Kitsap | WA-47-91 | Fowlweather Bluff east | South Fowlweather Bluff | Hansville/Port Ludlow. |
| Kitsap | WA-48-91 | Fowlweather Bluff | SW Fowlweather Bluff | Hansville/Port Ludlow. |
| Jefferson | WA-49-91 | Oak Bay east | South end Indian Island | Nordland. |
| Jefferson | WA-50-91 | Oak Bay | South end Indian Island | Nordland. |

WASHINGTON COASTAL BARRIERS RESOURCES ACT—Continued

| County | Unit No. | Unit name | Approximate unit location | Quadrangle map name ¹ |
|--------------|----------|-----------------------|-----------------------------|--|
| Jefferson | WA-51-91 | Oak Bay west | South end Indian Island | Nordland. |
| Jefferson | WA-52-91 | Kilisut Harbor | West Marrowstone Island | Nordland. |
| Jefferson | WA-53-91 | Kala Point | 3 1/2 miles S Port Townsend | Port Townsend South. |
| Jefferson | WA-54-91 | Port Discovery Area | Gardiner | Gardiner. |
| Jefferson | WA-55-91 | Thompson Spit | Mouth Port Discovery | Gardiner. |
| Clallam | WA-56-91 | Sequim Bay | 2 miles east Sequim | Sequim. |
| Clallam | WA-57-91 | Kilaikala Point | 2 miles northeast Sequim | Sequim. |
| Clallam | WA-58-91 | Dungeness Spit | Dungeness Bay | Dungeness. |
| Clallam | WA-59-91 | Mouth Elwha River | Lower Elwha | Angeles Point. |
| Clallam | WA-60-91 | Crescent Bay | 2 miles NE Joyce | Joyce. |
| Clallam | WA-61-91 | Pysbt River | Pysbt | Pysbt. |
| Clallam | WA-62-91 | Clallam Bay | Clallam Bay | Clallam Bay. |
| Clallam | WA-63-91 | Mouth Hoko River | 5 miles NW Clallam Bay | Clallam Bay. |
| Clallam | WA-64-91 | Mouth Waatch River | Makah Bay Area | Makah Bay. |
| Clallam | WA-65-91 | Sooes River | Makah Bay Area | Makah Bay. |
| Clallam | WA-66-91 | Quillayute River | La Push | La Push. |
| Jefferson | WA-67-91 | Queets River | Queets | Queets. |
| Grays Harbor | WA-68-91 | Raft River | 6 miles S of Queets | Tunnel Island. |
| Grays Harbor | WA-69-91 | Copalis River | Copalis Beach | Moclips and Copalis. |
| Grays Harbor | WA-70-91 | Conner Creek | North of Ocean City | Copalis. |
| Grays Harbor | WA-71-91 | Ocean Shores | West of Ocean Shores | Copalis and Point Brown/Westport. |
| Grays Harbor | WA-72-91 | Ocean Shores South | Southeast of Ocean Shores | Point Brown/Westport. |
| Grays Harbor | WA-73-91 | Westport | West of Westport | Point Brown/Westport and Grayland. |
| Grays Harbor | WA-74-91 | Grayland north | North of Grayland | Grayland. |
| Pacific | WA-75-91 | Grayland Beach | Grayland Beach State Park | Grayland. |
| Pacific | WA-76-91 | Empire Spit | North Cove Area | North Cove/Bay Cove. |
| Pacific | WA-77-91 | North Beach Peninsula | North end North Beach | North Cove/Bay Center and Oysterville. |
| Pacific | WA-78-91 | Jensen Point | West side Long Island | Long Island/Ocean Park. |
| Pacific | WA-79-91 | Long Beach/Seaview | Seaview | Cape Disappointment. |
| Pacific | WA-80-91 | Cape Disappointment | Fort Cowby State Park | Cape Disappointment. |

¹ Several units cover portions of 2 or more maps.

[Notice of Availability of Draft Maps of Washington Areas Under Consideration for Inclusion in the Coastal Barrier Resources System]

Dated: May 22, 1992.

Marvin L. Plenert,
Regional Director, Region 1, U.S. Fish and
Wildlife Service.

[FR Doc. 92-12542 Filed 5-28-92; 8:45 am]

BILLING CODE 4310-55-M

Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended 16U.S.C. 1531, et seq.:

PRT-767524

Applicant: Philadelphia Zoological Garden,
Philadelphia, PA

The applicant requests a permit to import one captive-born male cheetah (*Acinonyx jubatus*) from Metropolitan Toronto Zoo, Ontario, Canada, for enhancement of propagation and survival of the species through breeding.
PRT-768313

Applicant: The Peregrine Fund, Inc., Boise, ID

The applicant requests a permit to import one wild-caught, non-releasable female harpy eagle (*Harpia harpyja*)

from the Government of Venezuela for enhancement of propagation and survival of the species through breeding.

PRT-768323

Applicant: Larry V. Battarbee, Dallas, TX

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus dorcas dorcas*), culled from the captive herd maintained by Mr. A.G. Spaeth, "Doorboom", Republic of South Africa, for the purpose of enhancement and survival of the species.

PRT-768105

Applicant: Carl J. Hunt, Barstow, CA

The applicant requests a permit to import three male and four female captive-hatched white-eared pheasants (*Crossoptilon crossoptilon*) from Mr. Harry J. Hardy, British Columbia, Canada, for the purpose of enhancement and survival of the species through breeding.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 432, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are

available for review by any party who submits a written request for a copy of such documents to, or by appointment during normal business hours (7:45-4:15) in, the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 432, Arlington, Virginia 22203. Phone (703/358-2104); FAX (703/358-228)

Dated: May 21, 1992.

Margaret Tieger,
Acting Chief, Branch of Permits Office of
Management Authority.

[FR Doc. 92-12540 Filed 4-28-92; 8:45 am]

BILLING CODE 4310-55-M

Availability of Revised Recovery Plan for the Eastern Timber Wolf

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability of the revised Recovery Plan for the Eastern Timber Wolf. The revised plan was signed on January 31, 1992, and replaces the original 1978 Recovery Plan for the Eastern Timber Wolf. The Service's responses to

comments received during the public comment period are also available. This recovery plan does not cover the northern Rocky Mountain wolf, the Mexican wolf, or the red wolf. These wolf species/subspecies each have separate recovery plans.

DATES: The recovery plan will be available for distribution until further notice.

ADDRESSES: Persons or organizations wishing to obtain a copy of the 1992 Recovery Plan for the Eastern Timber Wolf can obtain a copy from the U.S. Fish and Wildlife Service, Division of Endangered Species, Bishop Henry Whipple Federal Building, 1 Federal Drive, Fort Snelling, Minnesota 55111-4056, or by calling that office at (612) 725-3276 during normal business hours.

FOR FURTHER INFORMATION CONTACT: Craig Johnson, Chief, Division of Endangered Species, at the above address and telephone number.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant species to the point where it is again a secure, self-sustaining component of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service prepares recovery plans for most of the listed species which are native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels needed for downlisting or delisting the species, and estimate time and cost for implementing the recovery measures needed.

Recovery plans are prepared and revised by species experts under contract to the Service or by a recovery team appointed by the Service. During the preparation of all new or revised recovery plans, an opportunity is provided for the public to review and comment on an advanced draft of the plan. The Service considers all information presented during the public comment period prior to the approval of each new or revised plan. The Service and other Federal agencies will also take these comments into consideration in the course of implementing the actions contained in approved recovery plans.

The Recovery Plan for the Eastern Timber Wolf was first completed and approved in 1978. It has been revised because of advances in the Service's understanding of wolf biology, changes in wolf populations and habitat conditions, and a need to refine the

strategies designed to recover the eastern timber wolf and remove it from the list of endangered and threatened species. A Federal Register notice was published in February 1990 announcing the availability of a draft revised recovery plan for public review and comment. In response to a request from the American Farm Bureau Federation, the comment period was extended until July 9, 1990.

There was a great deal of public interest in the draft revised eastern timber wolf recovery plan. The Service received nearly 500 comment letters carrying the signatures of over 1000 individuals. Every letter was read and every opinion and statement was reviewed. A number of changes were made to the plan by the Eastern Timber Wolf Recovery Team as a result of the comments the Service received. Many changes clarify the wording in the recovery plan; in other cases, substantial revisions were made to improve the eastern timber wolf recovery program itself. The changes made to the revised recovery plan were approved by the Service and the plan was signed on January 31, 1992.

The overall objective of the revised recovery plan remains unchanged: to maintain and reestablish viable populations of the eastern timber wolf in as much of its former range as is feasible. The criteria for measuring attainment of this objective also remain unchanged: (1) The survival of the wolf in Minnesota must be assured, and (2) at least one viable population of eastern timber wolves must be reestablished outside Minnesota and Isle Royale in the contiguous 48 States of the United States of America.

An eastern timber wolf population within 100 miles of the Minnesota wolf is considered to be viable if a late-winter population of 100 wolves is sustained for 5 consecutive years. If an eastern timber wolf population is more than 100 miles from the Minnesota population, a population of 200 wolves must be maintained for 5 years in order for it to be considered viable. If the Minnesota wolf population remains secure, the Service will initiate the delisting process for the eastern timber wolf when a second population achieves the appropriate viability threshold. The Service currently estimates that the recovery criteria can be attained by 2005.

The revised recovery plan generally recommends continuing the eastern timber wolf recovery program as it has been carried out under the direction of the 1978 recovery plan. Those activities have resulted in a healthy wolf population in Minnesota, as well as

small, but increasing, wolf populations in Wisconsin and the Upper Peninsula of Michigan. The revised plan retains provisions to establish additional populations of wolves in the northeastern United States. However, since only one viable eastern timber wolf population is required outside of Minnesota to satisfy the recovery criteria, the Service is not likely to begin eastern timber wolf reintroductions into other areas as long as the Wisconsin-Michigan wolf numbers are increasing. Areas in the southern and central Appalachian Mountains are not longer being considered for future eastern timber wolf reintroductions.

The revised recovery plan recommends that the Service improve the Federal wolf depredation control program to enable it to successfully cope with the growth of the Minnesota wolf population. These recommendations include beginning strictly controlled preventive trapping at locations in Minnesota Wolf Management Zones 4 and 5 that are experiencing chronic wolf depredation on livestock, as well as initiating live-trapping and relocation of wolves killing domestic animals in Zone 1. Current depredation control activities will continue in Zones 2 and 3. The Plan also recommends that the Service refine the boundaries of the Minnesota Wolf Management Zones to more accurately match habitat conditions.

A population of 80 wolves is identified as the point at which the Wisconsin wolf population can be reclassified from endangered to threatened status. Wisconsin wolves will be reclassified if the late-winter wolf population meets or exceeds this level for 3 consecutive years.

The revised plan stresses the importance of minimizing roads within wolf habitat, and a maximum of 1 linear mile of public roads per square mile of land area is recommended in a road density statement. Also, the list of factors that are critical threats to the long-term survival of the eastern timber wolf has been expanded to include diseases and parasites.

Authority

The authority for this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: February 26, 1992.

John G. Rogers,
Acting Regional Director.

[FR Doc. 92-12578 Filed 5-28-92; 8:45 am]

BILLING CODE 5310-55-M

National Park Service**Klondike Gold Rush National Historical Park; Notice of Intent to Prepare an Environmental Impact Statement and Notice of Meetings**

AGENCY: National Park Service, Alaska Regional Office.

ACTION: Notice of Intent to prepare a General Management Plan and an environmental impact statement for Klondike Gold Rush National Historical Park in Skagway, Alaska and notice of locations for public scoping meetings.

SUMMARY: The National Park Service (NPS) is beginning preparation of the general management plan and environmental impact statement for Klondike Gold National Historical Park as required by Section 604 of Public Law 95-625. This plan will be a revision to the Park's 1973 Master Plan.

Interested and affected groups, organizations, and individuals are being asked to participate in plan development. They will be kept informed of the planning progress and as proposals are developed.

Location: Scoping meetings are scheduled in the communities as shown below:

Skagway, AK June 22, 1992, City Hall 7-9 p.m.
Haines, AK June 24, 1992, City Hall 7-9 p.m.
Whitehorse, Yukon June 23, 1992, Yukon Inn-Fireside South 4220 4th Ave 7-9 p.m.
Juneau, AK June 25, 1992, Centennial Hall-Hickel Room, 101 Egan drive 7-9 p.m.
Seattle, WA June 26, 1992, Klondike Gold Rush Historical Park, 117 South Main 7-9 p.m.
Anchorage, AK June 29, 1992, Loussac Public Library Conference Room, 3600 Denali 7-9 p.m.

Meetings will be advertised in local media. The purposes of the scoping meetings are (1) to familiarize the public with existing management of the Park; (2) to solicit ideas and information from the public about future management of the Park; and (3) to offer various management options for consideration. The Public will also be encouraged to suggest additional alternative management actions which have not been considered by NPS and describe measures which could be taken to mitigate impacts of any proposed actions so they may be considered in preparation of the environmental impact statement.

FOR FURTHER INFORMATION CONTACT:

Mike Strunk, Chief of Planning & Landscape Architecture, National Park Service, Alaska Regional Office, 2525 Gambell Street, Anchorage, AK 99503, (907) 257-2655

or

Clay Alderson, Superintendent, Klondike Gold Run National Historical Park, PO Box 517, Skagway, AK 99840, (907) 983-2921

Dated May 14, 1992.

John M. Morehead

Regional Director.

[FR Doc. 92-12538 Filed 5-28-92; 8:45 am]

BILLING CODE 4310-70-M

Richmond National Battlefield Park General Management Plan; Notice of Intent To Prepare an Environmental Impact Statement and Notice of Public Scoping

Summary: In accordance with section 102(c) of the National Environmental Policy Act of 1969, the National Park Service is preparing an Environmental Impact Statement (EIS) for the General Management Plan for Richmond National Battlefield Park (RNBPP). RNBPP consists of ten units in Hanover, Chesterfield, and Henrico counties and the City of Richmond in the Commonwealth of Virginia. The National Park Service is publishing a Notice of Intent (NOI) to prepare the EIS, and opening a public scoping period during the preparation of the document.

Notice of Intent to Prepare an Environmental Impact Statement: The National Park Service announces a public scoping period to invite public participation in the development and analysis of alternatives to be considered and analyzed in the Draft GMP/Draft EIS for the Richmond National Battlefield Park. The National Park Service is required by section 604 of Public Law 95-625 to prepare general management plans "for the preservation and use of each unit of the National Park System * * * and these shall be prepared and revised in a timely manner." The GMP sets forth the basic management philosophy for the management of the park's natural and cultural resources. It will also address maintenance of the patterns, and the interpretive program. Decisions and strategies for achieving management objectives identified in the GMP will be phased-in over a 5 to 10 year period. Following full implementation, the final GMP/EIS will guide the management, operation and use of Richmond National Battlefield Park for the next 10 to 15 years.

Initial issues and alternatives to be addressed will be identified through newsletters, meetings and correspondence with local, state and federal agencies, private organizations, clubs, and the public. Based on these discussions a scoping document for the Draft GMP and Draft EIS will be

developed in order to elicit further public comment on issues and management alternatives. Primary management/park issues will be incorporated into the design of a set of final GMP alternatives.

The scoping process will consist of a series of meetings distributed throughout Hanover, Chesterfield, and Henrico counties as well as the City of Richmond. Meeting dates, locations and times will be announced through published notices in main local newspapers, newsletters, civil war history clubs or groups, radio, and other available media.

Following publication of the scoping document, a follow-up series of public meetings will be held to discuss the issues and possible GMP alternatives identified in this document. These meetings will be announced in newspapers, newsletters and other local media.

Further information can be obtained from the Superintendent of Richmond National Battlefield Park, Cynthia MacLeod, 3215 East Broad Street, Richmond, Virginia 23223.

The responsible official is the Acting Regional Director, Charles P. Clapper, Jr., Mid-Atlantic Regional Office, 143 S. Third Street, Philadelphia, Pennsylvania 19106.

Charles P. Clapper, Jr.

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 92-12533 Filed 5-28-92; 8:45 am]

BILLING CODE 4310-70-M

Notice of Availability of the final Environmental Impact Statement for the Wilderness Recommendation, Voyageurs National Park, Minnesota

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability of the final Environmental Impact Statement (FEIS) for the Wilderness Recommendation, Voyageurs National Park, Minnesota.

SUPPLEMENTARY INFORMATION: For Voyageurs National Park, the National Park Service studied six wilderness alternatives ranging from no action, which means no wilderness designation, to designating all suitable lands within the study area as wilderness. Alternative 2, the proposed action, recommends 127,436 acres or just under 98.9 percent of the study area for wilderness designation. This represents 91.6 percent of park lands.

Single copies of the FEIS may be obtained from the Superintendent (address below). The headquarters at

Voyageurs National Park will also have reading copies available to the public as will the National Park Service's Midwest Regional Office, 1709 Jackson Street, Omaha Nebraska 68102, and the Public Affairs Office, National Park Service, U.S. Department of the Interior, 18th and C Street, NW., room 3424, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Ben Clary, Superintendent, Voyageurs National Park, HCR9, P.O. Box 600, International Falls, Minnesota, 56649, phone number (218) 283-9821.

Dated: May 21, 1992.

Jonathan P. Deason,

Director, Office of Environmental Affairs.

[FR Doc. 92-12534 Filed 5-28-92; 8:45 am]

BILLING CODE 4310-70-M

Delaware and Lehigh Navigation Canal National Heritage Corridor; Meeting

AGENCY: National Park Service; Delaware and Lehigh Navigation Canal National Heritage Corridor Commission.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission.

DATED: June 12, 1992 at 1:30 pm.

Inclement weather reschedule date: None.

ADDRESSES: Bucks County Conservancy, Aldie Mansion, 85 Old Dublin Pike, Doylestown, PA.

FOR FURTHER INFORMATION CONTACT:

Millie Alvarez, Delaware and Lehigh Navigation Canal National Heritage Corridor Commission, 10 East Church Street, room P-208 Bethlehem, PA 18018 (215) 861-9345.

SUPPLEMENTARY INFORMATION: The Commission was established by Public Law 100-692 to assist the Commonwealth and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historical and natural resources. The Commission will report to the Secretary of the Interior and to Congress. The agenda for the meeting will focus on the planning process.

The meeting will be open to the public. Any member of the public may file a written statement concerning agenda items. The Statement should be addressed to National Park Service, Mid-Atlantic Regional Office, Division of Park and Resource Planning, 260 Custom House, 200 Chestnut Street, Philadelphia, PA, 19106, attention: Deirdre Gibson.

Minutes of the meeting will be available for inspection four weeks after the meeting, at the above-named address.

Charles P. Clapper, Jr.,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 92-12535 Filed 5-28-92; 8:45 am]

BILLING CODE 4310-70-M

Gauley River National Recreation Area; Meeting

AGENCY: National Park Service; Gauley River National Recreation Area Advisory Committee.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Gauley River National Recreation Area Advisory Committee. Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: June 24, 1992, 10 a.m.

ADDRESSES: Econo Lodge, Summersville, WV (5 miles south of Summersville on US Rt. 19, just north of intersection with WV Rt. 129).

FOR FURTHER INFORMATION CONTACT:

Joe L. Kennedy, Superintendent, New River Gorge National River, P.O. Box 246, Glen Jean, WV 25846; (304) 465-0508.

SUPPLEMENTARY INFORMATION: The Advisory Committee was established under section 206(a) of the "WV National Interest Act of 1987," Public Law 100-534, to consult with the Secretary of the Interior, or his designee, " * * * on matters relating to development of a management plan for the recreation area and on implementation of such plan."

The agenda for this meeting will focus on orientation of the committee members to the recreation area purpose and the purpose of the committee. Members will also be introduced to National Park Service employees responsible for developing and implementing the general management plan for the recreation area.

The meeting will be open to the public. Any member of the public may file with the Committee a written statement concerning agenda items. The statement should be addressed to the Gauley River National Recreation Area Advisory Committee, P.O. Box 246, Glen Jean, WV 25846. Minutes of the meeting will be available for inspection four weeks after the meeting, at the permanent headquarters of the New River Gorge National River, 104 Main

Street, P.O. Box 246, Glen Jean, WV 25846.

Charles P. Clapper, Jr.,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 92-12536 Filed 5-28-92; 8:45 am]

BILLING CODE 4310-70-M

Upper Delaware Scenic and Recreational River; Meeting

AGENCY: National Park Service; Upper Delaware Citizens Advisory Council.

ACTION: Notice of meeting.

SUMMARY: This notice changes the location of the June 28, 1992, meeting of the Upper Delaware Citizens Advisory Council, as required under the Federal Advisory Committee Act.

In Celebration of America's Scenic Rivers Month, the Upper Delaware Citizens Advisory Council, in cooperation with other organizations of the Upper Delaware River Valley, is hosting a week-long canoe trip. The Upper Delaware Citizens Advisory Council will meet at the Wild and Scenic River Tours Campground for one night only, as part of this celebration.

Meeting Date: June 28, 1992

Type of Meeting: Business

Inclement Weather Reschedule Date: None

Press Releases containing specific information regarding the subject of each monthly meeting will be published in the following area newspapers:

The Sullivan County Democrat
The Times Herald Record
The River Reporter
The Tri-state Gazette
The Pike County Dispatch
The Wayne Independent
The Hawley News Eagle
The Weekly Almanac

Announcements of cancellation due to inclement weather will be made by radio stations WDNH, WDLG, WSUL, and WVOS.

ADDRESSES: Wild and Scenic River Tours Campground, Barryville New York.

FOR FURTHER INFORMATION CONTACT:

John T. Hutzky, Superintendent; Upper Delaware Scenic and Recreational River, P.O. Box C, Narrowsburg, New York 12764-0159; 717-729-8251.

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704 (f) of the National Parks and Recreation Act of 1978, Public Law 95-625, 16 U.S.C. §1724 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to

the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation and implementation of the management plan, and on programs which relate to land and water use in the Upper Delaware Region.

All meetings are open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Upper Delaware Citizens Advisory Council, P.O. Box 84, Narrowsburg, NY 12764. Minutes of the meeting will be available for inspection four weeks after the meeting, at the permanent headquarters of the Upper Delaware Scenic and Recreational River, River Road, 1 1/4 miles north of Narrowsburg, New York; Damascus Township, Pennsylvania.

Charles P. Clapper, Jr.,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 92-12537 Filed 5-28-92; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-333]

Import Investigations; Certain Woodworking Accessories

Commission Determination Not To Review an Initial Determination Terminating the Investigation As To One Respondent on the Basis of a Consent Order; Issuance of Consent Order

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (ALJ's) initial determination (ID) in the above-captioned investigation granting a joint motion to terminate the investigation as to respondent Woodever Products Co., Ltd., ("Woodever") on the basis of a consent order.

FOR FURTHER INFORMATION CONTACT: Cynthia P. Johnson, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-205-3098.

SUPPLEMENTARY INFORMATION: On April 1, 1992, complainant Cantlin Inc., ("Cantlin") and respondent Woodever moved jointly pursuant to interim rule 210.51 to terminate the investigation as to Woodever on the basis of a consent order and consent order agreement. The

Commission investigative attorney filed a response in support of the joint motion. On April 21, 1992, the presiding ALJ issued an ID (Order No. 31) granting the motion. No petitions for review or agency or public comments were received.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and Commission interim rule § 210.53(h), 19 CFR 210.53(h).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-205-2000. Hearing-impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

Issued: May 22, 1992.

By order of the Commission,

Kenneth R. Mason,

Secretary.

[FR Doc. 92-12501 Filed 5-28-92; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31989]

Elk River Railroad, Inc.—Construction and Operation Exemption—Clay and Kanawha Counties, WV

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission, under 49 U.S.C. 10505, conditionally exempts the Elk River Railroad, Inc., from the prior approval requirements of 49 U.S.C. 10901, for its construction and operation of a 30-mile line of railroad from Hartland to Falling Rock, in Clay and Kanawha, Counties, WV, subject to review of the anticipated environmental impacts of constructing and operating the proposed line.

DATES: This exemption will be effective on June 28, 1992. Petitions for reopening must be filed by June 15, 1992.

ADDRESSES: Send pleadings referring to Finance Docket No. 31989 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: Donald G. Avery, Robert D. Rosenberg, Slover & Loftus, 1224 Seventeenth Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RICHARD B. FELDER, (202) 927-5610, [TDD FOR HEARING IMPAIRED: (202) 927-5721].

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927-5721.]

Decided: May 21, 1992.

By the Commission, Chairman Philbin, Vice Chairman McDonald, Commissioners Simmons, Phillips, and Emmett.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 92-12621 Filed 5-28-92; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree in Action Under the Clean Air Act; Certified Abatement Services, Inc.

In accordance with 113(g) of the Clean Air Act, 42 U.S.C. 7413(g), and Departmental policy, 28 CFR 50.7, notice is hereby given that on May 13, 1992, the United States Department of Justice, by the authority of the Attorney General and acting at the request of and on behalf of the Administrator of the United States Environmental Protection Agency, lodged a consent decree in *United States v. Certified Abatement Services, Inc.* with the United States District Court for the Eastern District of Michigan. The consent decree addresses alleged violations of the National Emission Standards for Hazardous Air Pollutants for asbestos ("the asbestos NESHAP") by Certified Abatement Services, Inc., that occurred during the renovation of a building located at 522 Ezra Rust Drive in Saginaw, Michigan. The consent decree requires Certified Abatement Services, Inc., to pay a civil penalty of \$6,000.00, to fully comply with the requirements of the Clean Air Act and the asbestos NESHAP, and to make written quarterly asbestos NESHAP compliance reports for two years.

The Department of Justice will receive written comments relating to the consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to

Chief, Environmental Enforcement Section, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States v. Certified Abatement Services, Inc.*, DOJ Reference No. 90-5-2-1586.

The consent decree may be examined at the Region V Office of Regional Counsel, United States Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604, and at the Environmental Enforcement Section Document Center, United States Department of Justice, 601 Pennsylvania Avenue, NW., Box 1097, Washington, DC 20004 (202-347-2072). A copy of the consent decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center. In requesting a copy, please enclose a check for \$3.00 (25 cents per page reproduction cost) payable to Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section
Environment and Natural Resources Division.
[FR Doc. 92-12587 Filed 5-28-92; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

National Cooperative Research Act of 1984—DDBSA Joint Venture

Notice is hereby given that, on April 20, 1992, pursuant to Section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), H. B. Fuller Company filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the DDBSA Joint Venture ("Joint Venture") and (2) the nature and objectives of the Joint Venture. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties to the Joint Venture and its objectives are given below.

The parties to the Joint Venture are:

Anderson Chemical Company—Litchfield, Minnesota
Chemax—Portland, Oregon
Chemland Inc.—Turlock, California
De Vere Chemical Co., Inc.—Janesville, Wisconsin
Diversey Corporation—Livonia, Michigan
Ecolab Inc.—St. Paul, Minnesota
Alex C. Fergusson, Inc.—Frazer, Pennsylvania
H. B. Fuller Co.—Minneapolis, Minnesota
Morgan-Gallagher, Inc.—Santa Fe Springs, California

Oakite Products, Inc.—Berkeley Heights, New Jersey
Stepan Co.—Northfield, Illinois
U.S. Chemical Co. (Division of Hydrite Chemical)—Brookfield, Wisconsin
Wayne Chemical—Fort Wayne, Indiana
Webco Chemical—Dudley (Webster), Massachusetts
West Agro, Inc.—Kansas City, Missouri
Zep Manufacturing Co.—Atlanta, Georgia

The objectives of the Joint Venture are to sponsor and conduct toxicological research on the chemical known as alkylbenzene sulfonates (EPA Case #4006) and to submit the results of this research to the U.S. Environmental Protection Agency ("EPA") in response to the Reregistration Notice-List D issued by the EPA in October, 1989.

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 92-12487 Filed 5-28-92; 8:45 am]

BILLING CODE 4410-01-M

Notice Pursuant to the National Cooperative Research Act of 1984—Smart House, L.P.

Notice is hereby given that, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Smart House, L.P., on April 6, 1992, has filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing the identities of additional parties to the Smart House Project ("the Project") and changes in the status of certain participants in the Project. The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the additional parties to the Project, those which have ceased to be involved in the Project, and those whose relationship to the Project has changed, are given below.

The following party is negotiating to become a participant in the venture:

Digital Security Controls Ltd., Downsview, Ont.

The following parties no longer are involved in the venture:

Interior Piping Systems, Inc., Pittsburg, PA;
Carrier Corporation, Syracuse, NY;
Eagle Electric Manufacturing Co., Inc., Long Island City, NY;
Genlyte Group Inc., Secaucus, NJ;
Marine Development Corporation, Richmond, VA;
The Siemon Company, Watertown, CT;
Apple Computer, Cupertino, CA;

Broan Manufacturing, Hartford, WI;
Chung-Hsin Electric & Machinery, Taiwan, R.O.C.;
Home Automation, Inc., Metairie, LA;
Klockner-Moeller Corp., Franklin, MA;
LiteTouch, Inc., Salt Lake City, UT;
Teledyne Laars, Moorpark, CA;
Midwest Gas, Des Moines, IA;
Astec America, Oceanside, CA;
Michigan Consolidated Gas Co., Detroit, MI;
Minnesota Blue Flame Gas Association;
Northern Natural Gas Co., Minneapolis, MN;
Potomac Electric Power Co., Washington, DC; and
Dynamic Computer Products Inc., Denver, CO.

The following additional parties are now participating in the venture:

BRANZ, Porirua, New Zealand;
Halstead Industries, Greensboro, NC;
New Stuff Inc., Grants Pass, OR;
PDI Corporation, Annapolis, MD;
WaterFurnace International Inc., Ft. Wayne, IN;
Smart Interface Corp., Las Cruces, NM;
Sturgeon Bay Metal Products, Inc., Sturgeon Bay, WI;
Parity, Incorporated, Bethesda, MD;
Smart American Home Centers, Inc., Trumbull, CT;
Diablo Research Corporation, Sunnyvale, CA; and
Texas Instruments, Dallas, TX.

The following parties remain participants in the venture but have changed their names:

from: Canada Wire & Cable Ltd.
to: Alcatel Canada Wire Inc., Don Mills, Ont.;
from: Professional Builder Magazine
to: Professional Builder & Remodeler Magazine, Des Plaines, IL.

No other changes have been made in either the membership or the planned activities of the Project.

On June 14, 1985, the predecessor in interest to Smart House, L.P. filed the original notification pursuant to section 6(a) of the Act. On September 13, 1985, January 9, 1986, April 28, 1986, July 30, 1986, December 17, 1986, April 8, 1987, June 30, 1987, August 25, 1987, December 4, 1987, February 22, 1988, April 5, 1988, November 2, 1988, June 30, 1989, February 26, 1990, August 7, 1990, February 4, 1991, and November 4, 1991, Smart House, L.P. or its predecessor in interest filed additional written notifications. The Department of Justice published notices in the *Federal Register* in response to these additional notifications on October 10, 1985 (50 FR 41428), January 28, 1986 (51 FR 3520), May 16, 1986 (51 FR 18049), August 28, 1986 (51 FR 30724), January 15, 1987 (52 FR 1673), May 8, 1987 (52 FR 17490), July 30, 1987 (52 FR 28494), September 22, 1987 (52 FR 35596), January 5, 1988 (53 FR 186), March 21, 1988 (53 FR 9154),

May 3, 1988 (53 FR 15750), December 8, 1988 (53 FR 49614), August 23, 1989 (54 FR 35091), April 9, 1990 (55 FR 13199), September 6, 1990 (55 FR 36711), March 15, 1991 (56 FR 11273), and December 23, 1991 (56 FR 66454), respectively.

The principal business address of the Project is 400 Prince Georges Boulevard, Upper Marlboro, Maryland 20772-8731.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 92-12488 Filed 5-28-92; 8:45 am]

BILLING CODE 4410-01-M

National Cooperative Research Act of 1984; Further Development of Molecular Sieves to Reduce Cold Start Emissions from Automobiles

Notice is hereby given that, on May 5, 1992, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), Southwest Research Institute ("SwRI") filed a written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing the addition of three parties to its group research project regarding "Further Development of Molecular Sieves to Reduce Cold Start Emissions from Automobiles". The notification was filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the SwRI advised that A.C. Rochester, Flint, Michigan (effective September 23, 1991); Mercedes-Benz of North America, Inc., Montvale, New Jersey (effective April 13, 1992); and Volvo Technological Development, Goteborg, Sweden (effective April 14, 1992) have become parties to the group research project.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the members intend to file additional written notification disclosing all changes in membership.

On September 9, 1991, SwRI filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the *Federal Register* pursuant to section 6(b) of the Act on October 8, 1991, (56 FR 50729).

Joseph H. Widmar,

Director of Operations Antitrust Division.

[FR Doc. 92-12488 Filed 5-28-92; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on December 18, 1991, MD Pharmaceutical, Inc., 3501 West Garry Avenue, Santa Ana, California 92704, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

| Drug | Schedule |
|-----------------------------|----------|
| Methylphenidate (1724)..... | II. |
| Diphenoxylate (9170)..... | II. |

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than June 29, 1992.

Dated: May 19, 1992.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 92-12510 Filed 5-28-92; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They

specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (48 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the *Federal Register*, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts," shall be the minimum paid by

contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page number(s).

Volume II

KANSAS, KS91-14 (May 29, p. ALL 1992).

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the *Federal Register* are in parentheses following the decisions being modified.

Volume I

FLORIDA, FL91-1 (February 22, 1991). p. ALL
KENTUCKY, KY91-7 (February 22, 1991). p. ALL
MARYLAND, MD91-1 (February 22, 1991). p. ALL
MARYLAND, MD91-34 (February 22, 1991). p. ALL
MARYLAND, MD91-34 (February 22, 1991). p. ALL

Volume II

ILLINOIS, IL91-16 (February 22, 1991). p. 215,
INDIANA, IN91-3 (February 22, 1991). p. ALL
INDIANA, IN91-4 (February 22, 1991). p. ALL
KANSAS, KS91-11 (February 22, 1991). p. ALL
KANSAS, KS91-14 (February 22, 1991). p. ALL
OKLAHOMA, OK91-29 (February 22, 1991). p. 1011, p. 1012
TEXAS, TX91-25 (February 22, 1991). p. ALL

Volume III

COLORADO, CO91-14 p. ALL (February 22, 1991).
NORTH DAKOTA, ND91-1 p. 283, p. 284 (February 22, 1991).

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from:

Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC This 22nd Day of May 1992.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 92-12462 Filed 5-28-92; 8:45 am]

BILLING CODE 4510-27-M

Employment and Training Administration

[TA-W-27, 155]

Diamond Dress Co., Inc. East Orange, NJ; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 20, 1992 in response to a worker petition which was filed by the Essex District Council of New Jersey of the International Ladies' Garment Workers' Union, on behalf of workers at Diamond Dress Company, Incorporated, East Orange, New Jersey.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would

serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 21st day of May 1992.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 92-12607 Filed 5-28-92; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-26,912]

North American Exploration Co., Inc., Grant Tensor Geophysical Corporation Denver, CO; Affirmative Determination Regarding Application for Reconsideration

On May 13, 1992, one of the petitioners requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers at the subject firm. The Department's Negative Determination was issued on April 30, 1992 and will soon be published in the *Federal Register*.

The petitioner states that the Department is inconsistent in its determinations by certifying its parent company and denying the workers at the subject field location.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 21st day of May 1992.

Robert O. Deslongchamps,

Director, Office of Legislation & Actuarial Services; Unemployment Insurance Service.

[FR Doc. 92-12608 Filed 5-28-92; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

[Docket No. NRTL-2-90]

Application of U.S. Testing Company, Inc., California Division, for Recognition as a Nationally Recognized Testing Laboratory; Extension of Comment Period

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Extension of comment period.

SUMMARY: This notice announces a 30 day extension of the comment period on the application of the California Division of the United States Testing Company, Inc. for recognition as a Nationally Recognized Testing Laboratory (NRTL) under 29 CFR 1910.7.

DATES: Comments on the application of U.S. Testing for recognition as an NRTL must be submitted by June 22, 1992.

ADDRESSES: Send comments to: NRTL Recognition Program, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., room N-3653, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: James J. Concannon, Director, Office of Variance Determination, NRTL Recognition Program, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., room N-3653, Washington, DC 20210.

SUPPLEMENTARY INFORMATION: Notice of Decision to Extend Comment Period on March 23, 1992 the Occupational Safety and Health Administration (OSHA) published a preliminary decision on the application of the United States Testing Company, Inc. (UST/CA) for recognition as an NRTL and requested public comment on the application (57 FR 10045). Interested persons were given until May 22, 1992 in which to comment on the application. The National Electrical Manufacturers Association (NEMA) has requested an extension of time in which to file comments on the UST/CA application (Ex. 4-3). NEMA requested a 60 day extension of the comment period to develop more specific rationale for its general comments on the application. However, OSHA believes that a 30 day extension is a sufficient period of time in which to develop comments in view of the fact that the public has already had 60 days in which to submit their comments. Therefore, OSHA is granting an extension of 30 days, until June 22, 1992, for interested persons to file comments on the UST/CA application. The last date for interested parties to submit comments is extended from May 22, 1992 to June 22, 1992.

The Assistant Secretary's final decision on whether the applicant satisfies the requirements for recognition as an NRTL will be made on the basis of the entire record including public comments on the application and any further proceedings that the Assistant Secretary may consider

appropriate in accordance with appendix A of 29 CFR 1910.7.

Signed at Washington, DC this 22nd day of May, 1992.

Dorothy L. Strunk,

Acting Assistant Secretary.

[FR Doc. 92-12606 Filed 5-28-92; 8:45 am]

BILLING CODE 4510-26-M

Pension and Welfare Benefits Administration

[Application No. D-9046, et al.]

Proposed Exemptions; Society National Bank, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this Federal Register Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, room N-5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents

Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, room N-5507, 200 Constitution Avenue, N.W., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the Federal Register. Such notice shall include a copy of the notice of proposed exemption as published in the Federal Register and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Society National Bank, Located in Cleveland, Ohio, Application No. D-9046

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(F) of the Code, shall not apply to the proposed receipt of fees by the Society National Bank, or any of its affiliates (collectively, the Bank), from the Emblem Fund (Emblem), an open-end investment company registered under the Investment Company Act of 1940, for acting as the investment adviser for Emblem, in connection with the investment by certain individual retirement accounts (IRAs) and H.R. 10 plans (Keoghs) for which the Bank

serves as a fiduciary, provided that the following conditions are met:

(a) No sales commissions are paid by the IRAs or the Keoghs in connection with the purchase or sale of shares of Emblem and no redemption fees are paid in connection with the sale of shares by the IRAs or Keoghs to Emblem;

(b) Each IRA or Keogh receives a rebate, in the form of an addition to income in the amount of such IRA's or Keogh's proportionate share of the reduction in net asset value of the investment brought about by the payment of the investment management fee charged to Emblem by the Bank. This addition to income will be transferred to the IRA or Keogh account on the same day as the reduction in value brought about by the payment of the investment advisory fee;

(c) A second fiduciary (the Second Fiduciary), who is independent of the unrelated to the Bank, receives full written disclosure of information including: (i) current prospectuses for each Emblem portfolio, and (ii) a statement describing the fee structures of the Bank as trustee, of the Bank as investment advisory to Emblem, and of Emblem. On the basis of such information, the Second Fiduciary authorizes in writing the investment of assets of the IRA or Keogh in Emblem, and the fees to be paid by Emblem to the Bank;

(d) The authorization referred to in paragraph (c) is terminable at will by the IRA or Keogh, without penalty to the IRA or Keogh, upon receipt by the Bank of written notice of termination. Full written disclosure of the information described in paragraph (c), along with a form expressly providing an election to terminate the authorization described in paragraph (c) with instructions on the use of the form must be supplied to the Second Fiduciary no less often than annually. The instructions for such form must include the following information:

(i) The authorization is terminable at will by the IRA or Keogh, without penalty to the IRA or Keogh, upon receipt by the Bank of written notice from the Second Fiduciary; and

(ii) Failure to return the form will result in continued authorization of the Bank to engage in the transactions described in paragraph (c) on behalf of the IRA or Keogh.

(e) All dealings between the IRAs or Keoghs and Emblem are on a basis no less favorable to the IRAs and Keoghs than dealings with other shareholders of Emblem.

Summary of Facts and Representations

1. The Bank is a national banking association with its principal office located at 800 Superior Avenue, Cleveland, Ohio. The Bank is the lead subsidiary of the Society Corporation, a bank holding company. As of January 5, 1990, the total assets of the Bank were approximately \$16 billion. The Bank has fiduciary responsibility for approximately \$15 billion in trust assets. The Bank acts as trustee, directed trustee or custodian for the IRAs and Keoghs.

The applicant requests an exemption for the investment in Emblem by the following types of plans: ¹ IRAs where the Bank acts as discretionary trustee; self directed Keoghs (included within the meaning of self directed Keoghs are plans where the Bank is acting as either a custodian or a directed trustee); and Keoghs where the Bank is acting as discretionary trustee. The applicant represents that the IRAs and Keoghs are subject to section 4975 of the Code, but are not "employee benefit plans" covered by Title I of the Act. Therefore, no relief from section 406 of the Act has been requested by the applicant.

The Bank provides master and prototype plans for each of these types of plans. The plan documents for the IRAs and the Keoghs provide, that where the Bank is a discretionary trustee, the Bank has full and sole discretionary control and responsibility with respect to the investment of Trust assets. The plan documents further provides that, where the Bank acts as custodian, it will act only upon specific instructions from the trustee or its agents. ² These plan documents provide that, regardless of the Bank's status as a trustee, a directed trustee or a custodian, the Bank does not render any investment advice to any Second Fiduciary of an IRA or Keogh.

2. Emblem is a Massachusetts business trust organized on February 5,

1986 as an open-end, diversified management investment company registered under the Investment Company Act of 1940. Emblem has an unlimited number of authorized units of beneficial interests (shares) which may be divided into an unlimited number of series shares. Emblem currently consists of ten series of shares (each series is herein referred to as a "portfolio" and all series are collectively referred to as the "portfolios"). Each portfolio has a separate prospectus and represents a distinct investment vehicle. The shares of each specific portfolio represent a proportionate interest in the assets of that portfolio.

Currently, Emblem's portfolios hold combined assets of approximately \$730 million. The existing portfolios are the Emblem Prime Obligations, U.S. Government Obligations, Intermediate Government, Tax Exempt, Ohio Tax-Free, Relative Value Equity, Earnings Momentum Equity, Ohio Regional Equity, International and Short-Intermediate Fixed Income Portfolios. Emblem contemplates that additional portfolios may be made available to the IRAs and Keoghs.

The overall responsibility for management of Emblem, including the negotiation of investment advisory contracts, rests with its Board of Trustees. The Board of Trustees is elected by the shareholders of Emblem. Shareholders are entitled to one vote for each full share held, and a proportionate fractional vote for any fraction of a share. Shareholders vote as a single class on all matters except (i) when required by the Investment Company Act of 1940, and (ii) when the Trustees have determined that the matter affects only the interests of one or more specific portfolios, then only the shareholders of such portfolios shall be entitled to vote thereon. While Emblem is not required to hold annual meetings, shareholders with beneficial interests of 10% or more of the shares have the right (i) to call a meeting to remove one or more Trustees, and (ii) to be assisted by the Trustees in communicating with the other shareholders of Emblem.

3. The Winsbury Company (Winsbury), an Ohio limited partnership, is the manager and administrator of Emblem and acts as the principal underwriter and distributor of Emblem's shares. Winsbury is unrelated to the Bank and its affiliates. Fees are paid monthly by Emblem to Winsbury for these services based on the average daily net assets of each portfolio. These fees are paid by Emblem to Winsbury pursuant to Rule 12b-1 under the Investment Company Act of 1940, and in

¹ In a separate proceeding, the Department is considering the availability of PTE 84-24 (49 FR 13208, April 3, 1984) under circumstances where the Bank acts as custodian for an IRA and such IRA invests in an Emblem portfolio.

² With regard to the self directed Keoghs, the master and prototype document provides, at section 13.7, that the adopting employer may appoint an investment manager, or such employer may retain the right to direct the trustee with respect to investments. However, to the extent the sponsor of the Keogh, or his investment manager, does not issue investment directions, the Bank as trustee shall have sole discretion to invest the Keogh's assets, and shall automatically invest the available cash in an appropriate interim investment until specific written investment directions are received. The Department notes that, in making these interim investment decisions, the Bank is acting as a fiduciary and is subject to the prohibitions of section 4975 of the Code.

accordance with the agreements between Winsbury and Emblem.

Shares of Emblem are offered and sold to eligible investors, which include customers of the Bank, institutional investors, and the general public. If the proposed exemption is granted, shares of Emblem will be offered to the IRAs and Keoghs.

4. The Bank performs services for Emblem as investment adviser and custodian. The Bank charges Emblem for these services in accordance with various agreements between the Bank and Emblem. These agreements have been approved by the Board of Trustees of Emblem (Emblem Trustees), as required by applicable securities law. The Emblem Trustees are independent of the Bank. Any changes in the fees charged by the Bank for services to Emblem must be approved by Emblem Trustees. With respect to the proposed investment in Emblem by the IRAs and Keoghs, the Bank states that it will rebate to each Plan its proportionate share of all fees charged by the Bank to Emblem (see paragraph 5 below). With respect to the custodial fees, the Bank states that it receives no compensation for its services as custodian for the Portfolios other than the reimbursement of expenses.

5. The Bank represents that the proposed fee structure (the Fee Structure) has been designed to assure that the total fees charged by the Bank to an IRA or a Keogh will be the same whether or not such IRA or Keogh invests in Emblem, and that no additional fees are paid by an IRA or Keogh as a result of its investment in Emblem shares. The Fee Structure is described as follows:

(a) The Bank will charge their standard fees to all the IRAs and Keoghs for serving as either a trustee, directed trustee or custodian for the IRAs and Keoghs.³ The Bank's fees are based upon the total assets in each IRA or Keogh. The standard trust fee reflects the Banks control and responsibility with respect to the investment of these plan assets; the custodial fee reflects the Bank's limited responsibility with respect to these assets.

(b) The Bank will charge Emblem for its services to Emblem as investment adviser in accordance with the various agreements between the Bank and Emblem. These fees are based upon the average daily net assets of each portfolio. The fees compensate the Bank

for managing the portfolios, making and executing investment decisions and maintaining records relating to such purchases and sales.

(c) The Bank's fees to Emblem are accrued on a daily basis and billed by the Bank to Emblem at the end of each month.

(d) At the end of each month and on the same day as the billing described in (c) above, the Bank will rebate to each Plan such Plan's pro rata share of all investment advisory fees charged by the Bank to Emblem (the Rebate Program). The Bank represents that the rebated fees will be paid to the Plan in cash. Each IRA or Keogh will receive a rebate equal to the amount of its proportionate share of the reduction in net asset value of the shares in each portfolio held by each such IRA or Keogh brought about by the payment of the investment advisory fee.

6. The Bank states that the Fee Structure will be at least as advantageous to the IRAs and Keoghs as an offset or credit arrangement whereby fees paid by Emblem to the Bank would be offset against other fees charged directly by the Bank to the IRAs and Keoghs.⁴ The Rebate Program will ensure that the Bank will not receive any additional fees from Emblem as a result of the IRAs and Keoghs investing in Emblem. Thus, the Fee Structure with the Rebate Program essentially will have the same effect in offsetting the Bank's fees received from Emblem as an arrangement allowing for a credit of such fees against other fees charged directly to the IRAs and Keoghs. The Fees Structure will allow an IRA holder or Keogh sponsor to pay the IRA's or Keogh's fees to the Bank or its affiliate for serving as either a trustee or a directed trustee for the IRA or Keogh, and still allow for the IRA or Keogh to receive a rebate of such Plans' pro rata share of fees paid by Emblem to the Bank.

⁴ See Prohibited Transaction Exemption 77-4 (42 FR 18732, April 8, 1977). PTE 77-4, in pertinent part, permits the purchase and sale by an employee benefit plan of shares of a registered, open-end investment company when a fiduciary with respect to the plan is also the investment adviser for the investment company, provided that, among other things, the plan does not pay an investment management, investment advisory or similar fee with respect to the plan assets invested in such shares for the entire period of such investment. Section II(c) of PTE 77-4 states that this condition does not preclude the payment of investment advisory fees by the investment company under the terms of its investment advisory agreement adopted in accordance with section 15 of the Investment Company Act of 1940. Section II(c) states further that this condition does not preclude payment of an investment advisory fee by the plan based on total plan assets from which a credit has been subtracted representing the plan's pro rata share of investment advisory fees paid by the investment company.

The Bank is responsible for establishing and maintaining a system of internal accounting controls for the Rebate Program. In addition, the Bank will retain the services of an independent accounting firm to audit annually the rebating of fees to the IRAs and Keoghs under the Rebate Program. Such audits will provide independent verification of the proper rebating to the IRAs and Keoghs of fees charged by the Bank to Emblem. Furthermore, the information obtained from the audits will be used in the preparation of required financial disclosure reports to the Second Fiduciary.

7. With respect to the IRAs and Keoghs, the Bank represents that a Second Fiduciary, which will be independent of and unrelated to the Bank and its affiliates, will receive full written disclosure of information concerning Emblem and, on the basis of such information, will authorize in writing the investment of assets of an IRA or Keogh in Emblem, and the fees to be paid by Emblem to the Bank. The authorization will be terminable at will by the IRA or Keogh, without penalty to the IRA or Keogh, upon receipt by the Bank of written notice of termination. Full written disclosure of information including current prospectuses for each Emblem portfolio, a statement describing the fee structures of the Bank as trustee, of the Bank as investment advisor to Emblem, and of Emblem, along with a form expressly providing an election to terminate the authorization with instructions on the use of the form will be supplied to the Second Fiduciary no less than annually. The instructions for such form will include the following information:

- (i) The authorization is terminable at will by the IRA or Keogh, without penalty to the IRA or Keogh, upon receipt by the Bank of written notice from the Second Fiduciary; and
- (ii) Failure to return the form will result in continued authorization of the Bank to engage in the subject transactions on behalf of the IRA or Keogh.

The Bank states that the disclosure statement will also explain why the Bank believes the investment of assets of the IRA or Keogh in Emblem is appropriate. In addition, the disclosure statement will describe whether there are any limitations on the Bank with respect to which IRA or Keogh assets may be invested in shares of Emblem and, if so, the nature of such limitations.⁵

⁵ See Section II(d) of PTE 77-4 which requires, in pertinent part, that an independent plan fiduciary

³ The Department is not proposing any exemptive relief herein for fees paid by the IRAs or Keoghs directly to the Bank for the provision of services. In this regard, see section 4975(d)(2) of the Code and section 54.4975-6 of the regulations.

8. The Bank states that all dealings between the IRAs or Keoghs and Emblem, or any affiliated person, will be on a basis no less favorable to the IRAs and Keoghs than such dealings are with the other shareholders of Emblem. The Bank further states that no sales commissions or redemption fees will be paid by the IRAs and Keoghs in connection with the purchase or sale of shares of Emblem. Emblem, however, may pay a fee to Winsbury or any other distributor of Emblem, provided that such distributor is unrelated to the Bank and the IRAs and Keoghs.

9. In summary, the Bank represents that the proposed transactions will satisfy the statutory criteria of section 4975(c)(2) of the Code because: (a) Emblem will provide the IRAs and Keoghs with an effective investment vehicle, without any increase in fees paid to the Bank; (b) the Bank will rebate the investment advisory fees paid by Emblem to the IRAs and Keoghs; (c) the Bank will require annual audits by an independent accounting firm to verify the proper rebating to the IRAs and Keoghs of fees charged by the Bank to Emblem; (d) with respect to the IRAs and Keoghs, investments in Emblem and the payment of any fees by Emblem to the Bank will require an authorization in writing by an independent Second Fiduciary of the IRA or Keogh after full written disclosure in all cases to such Second Fiduciary, including a current prospectus for the Emblem portfolios and a statement describing the Fee Structure; (e) no sales commissions or redemption fees will be paid by the IRAs and Keoghs in connection with the acquisition or sale of shares of Emblem; and (f) all dealings between the IRAs, Keoghs, Emblem or the Bank will be on a basis no less favorable to the IRAs and Keoghs than such dealings are with the other shareholders of Emblem.

FOR FURTHER INFORMATION CONTACT: Mr. S. J. Ryan of the Department, telephone (202) 523-8671. (This is not a toll-free number).

Gynecology-Obstetric Associates of Western New York, P.C. Profit Sharing Plan (the Plan), Located in Niagara Falls, NY [Application No. D-6833]

Proposed Exemption

The Department is considering granting an exemption under the

receive a current prospectus issued by the investment company and a full and detailed written disclosure of the investment advisory and other fees charged to or paid by the plan and the investment company, including a discussion of whether there are any limitations on the fiduciary/investment adviser with respect to which plan assets may be invested in shares of the investment company and, if so, the nature of such limitations.

authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) shall not apply to the proposed sale by the Plan, for the total cash consideration of \$127,000, of an office condominium (the Property) to a partnership (the Partnership) comprised of the principal shareholders of Gynecology-Obstetric Associates of Western New York, P.C. (the Employer), provided the following conditions are met: (1) The amount paid for the Property is not less than fair market value on the date of the sale; (2) the sale is a one-time transaction for cash; (3) the Plan does not pay any real estate fees or commissions in connection therewith; (4) the sales price for the Property is based upon its independently appraised fair market value; (5) the Partnership assumes a pre-existing loan obligation of the Plan with respect to the Property; (6) an independent fiduciary monitors the terms of the proposed sale on behalf of the Plan; (7) within 90 days of the publication, in the Federal Register, of the grant of this notice of proposed exemption, the Employer pays the Internal Revenue Service (the Service) all applicable excise taxes stemming from the Employer's past and continued leasing of the Property from the Plan; and (8) the Employer pays the Plan all rental amounts that may be in arrearage plus reasonable interest within 90 days of the granting of the exemption.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with total assets having a fair market value of \$1,554,726 as of December 31, 1990. As of February 28, 1992 the Plan had 12 participants. The trustees of the Plan (the Trustees) and decisionmakers with respect to Plan investments are Drs. John F. Sweeney and Robert J. Perez. The Trustees are principal shareholders of the Employer, a professional corporation located at 151 Buffalo Avenue, Units 211/212, Niagara Falls, New York.

2. The Partnership, which will be formed upon the granting of this exemption, will be a general partnership created for the purpose of owning and leasing real property. The Partnership will maintain its operations at the Buffalo Avenue address and its partners will be the Trustees and Dr. John

Greene, another principal shareholder of the Employer.

3. On July 19, 1982, the Plan purchased the Buffalo Avenue property from Parkway Development Associates (PDA), an unrelated party. The Property consists of a two unit office condominium containing 2,303 square feet of space. The total purchase price for the Property which was inclusive of credits to the seller was \$99,796. To acquire the Property, the Plan made a cash downpayment of \$27,494 and it executed a purchase money first mortgage note (the Note) with PDA in the amount of \$72,302.* The Note bears interest at the rate of 10 3/4 percent per annum and it requires that the Plan make monthly payments of principal and interest of \$688. The Note matures on July 1, 2012 and it contains no prepayment penalties. As of February 28, 1991, the Note had an outstanding principal balance of \$68,255. The applicant represents that the Plan has made all payments under the Note in a timely manner and that there have never been any loan defaults or delinquencies.

4. Contemporaneously with its purchase of the Property, the Plan commenced leasing it to the Employer for \$1,425 per month under an oral lease (the Lease) having a month to month duration.† Although the Employer is responsible for repairing and maintaining the premises under the Lease, the Plan is obligated to pay all real estate taxes that are assessed against the Property as well as the condominium fees.

With respect to the Plan's investment in the Property, the applicant represents that from July 1982 until February 1992 the Plan has paid \$79,105 in mortgage payments, \$29,154 in real estate taxes and \$46,174 in condominium fees or total acquisition and holding costs in connection with the Property of \$154,433. In addition, the Plan has received total rental income of \$163,875 from the inception of the Lease until February 1992 which, with the exception of one month, has always been paid in a timely manner by the Employer.

5. During May 1989, the Employer received notice from the Service advising it of an examination of the Plan for the year ending December 31, 1988. As a result of the examination, the

* Although the amount financed by PDA was \$73,721, \$1,419 represented disbursements attributable to the Plan's obtaining the mortgage. Therefore, the actual mortgage amount was \$72,302.

† According to the applicant, the rental, which has remained constant throughout the duration of the Lease, has been based upon a 15 percent annualized rate of return on the Plan's cost basis in the Property and not upon an independent appraisal.

Service determined, among other things, that the Employer had engaged in a prohibited transaction with the Plan by reason of its leasing arrangement with the Plan for the years 1983-1988. The applicant states that these findings were initially communicated orally to the Employer during December 1989 and subsequently documented in writing on February 16, 1990. On December 29, 1989, the applicant states that the Employer paid the Service \$17,722 in excise taxes for the years ending December 1986, 1987 and 1988.

6. The Plan proposes to sell the Property to the Partnership. Accordingly, an administrative exemption is requested from the Department. The anticipated sales price for the Property will be based upon its fair market value as determined by a qualified, independent appraiser. To acquire the Property, the Partnership will assume the PDA Note. It will also pay the Plan the difference between the fair market value of the Property and the outstanding principal balance of the Note thereby releasing the Plan from its loan obligation with PDA which does not object to such assumption. The Plan will not be required to pay any real estate fees or commissions in connection therewith.

7. The Property has been valued by Messrs. James Douria, SRA, Appraiser and Anthony A. Girasole, MAI, SRA, Review Appraiser, independent appraisers associated with Girasole Appraisal Company, Inc. of Niagara Falls, New York. In an appraisal report dated October 25, 1990, Messrs. Douria and Girasole placed the fair market value of the Property at \$127,000.

In an updated appraisal report dated November 5, 1991, Mr. Girasole determined that the fair market value of the Property had not changed since his earlier valuation. Mr. Girasole noted that the market had been rather stable with virtually no change in value and there had been no sales of additional offices in the subject condominium complex or any others of which he was aware. Therefore, he explained that the fair market value of the Property as he and Mr. Douria initially reported on October 25, 1991 continued to be valid.*

* As noted in Item 4 above, the Plan has received total rental income of \$163,375 from the Employer since the inception of the Lease. In addition, as a result of the proposed sale of the Property, the Plan will receive a net profit of approximately \$27,204 (\$127,000 representing the current fair market value of the Property minus the \$99,796 purchase price). Thus, the total income that will inure to the Plan in connection with its ownership of the Property is \$191,079 (\$163,875 plus \$27,204).

As also noted in Item 4, the Plan has expended approximately \$154,433 in mortgage payments, real

By letter dated February 26, 1992, Mr. Girasole again confirmed that the fair market value of the Property had not changed since the time of his initial and updated appraisals. Mr. Girasole also determined that if the subject Property were rented, as of February 26, 1992, it would have a fair market rental value of \$9 per square foot or a monthly rental of \$1,727 or \$20,727 per year.

8. In connection with the proposed sale transaction involving the Plan and the Partnership, the Employer represents that it will pay all remaining and applicable excise taxes that are owed to the Service by reason of its past and continued leasing of the Property from the Plan. The Employer states that it will make such payment within 90 days of the publication of the grant of the notice of proposed exemption in the *Federal Register*. Furthermore, the Employer represents that it will pay the Plan any rental amounts that may be in arrearage (i.e., the difference between the fair market rental value of the Property and the amount of rental that was actually paid) plus a comparable market rate of interest for any years the Plan received less than fair market value rent. Appropriate determinations of such rental amounts and interest will be determined by Mr. Ralph Boniello, III, who has been designated by the Trustees as the independent fiduciary with respect to the proposed transaction.

9. Mr. Boniello represents that he is an attorney who has been admitted to practice law before the courts of New York State. He explains that he has maintained a general law practice in New York since 1970 and that he is completely unrelated to the Employer and its principals. Mr. Boniello represents that he has consulted with counsel experienced with the Act regarding the duties, responsibilities and liabilities imposed on fiduciaries under the Act and he acknowledges and accepts these duties, responsibilities and liabilities as a fiduciary with respect to the Plan.

Mr. Boniello believes the proposed transaction is in the best interests of the Plan and its participants and beneficiaries because it will eliminate the excise tax penalties that are accruing under the prohibited Lease between the Plan and the Employer. In addition, Mr. Boniello states that the value of the Property is based upon the fair market value of the premises as established by an independent appraisal. In Mr. Boniello's view, this

estate taxes and condominium fees in connection with its ownership of the Property.

factor will not, in any way, prejudice the participants and beneficiaries of the Plan.

Mr. Boniello also represents that he does not manage the investment portfolio for the Plan. However, he explains that he has been advised that the proposed transaction will not jeopardize the liquidity requirements of the Plan and will complement the Plan's overall investment objectives and policies. In this regard, Mr. Boniello states that he will: (a) Monitor the proposed sale on behalf of the Plan, (b) consult with an independent appraiser in order to make determinations of back rent and interest that may be owed to the Plan during periods in which it may have received less than fair market value rent and (c) take appropriate steps throughout the duration of the proposed sale to safeguard the interest of the Plan in light of its investment portfolio, liquidity requirements, investment objectives and policies.

10. In summary, it is represented that the proposed transaction will satisfy the statutory criteria for an exemption under section 408(a) of the Act because: (a) The sale will be a one-time transaction for cash; (b) the Plan will not be required to pay any real estate fees or commissions in connection therewith; (c) the sales price for the Property has been determined by Messrs. Douria and Girasole who are qualified, independent appraisers; (d) the Partnership will assume a pre-existing loan obligation of the Plan with respect to the property; (e) Mr. Boniello, as independent fiduciary approves of the proposed sale and will monitor its terms on behalf of the Plan; (f) within 90 days of the publication, in the *Federal Register*, of the grant of this notice of proposed exemption, the Employer will pay the Service all applicable excise taxes that are related to the Employer's past and continued leasing of the Property from the Plan; and (g) within 90 days of the granting of the exemption, the Employer will pay the Plan all rental amounts that are in arrearage plus interest (as such amounts are calculated by Mr. Boniello) for any years the Plan received less than fair market value rent.

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a

fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the Plan solely in the interest of the participants and beneficiaries of the Plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the Plan must operate for the exclusive benefit of the employees of the employer maintaining the Plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the Plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the Plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 28th day of May, 1992.

Ivan Strasfeld,

Director of Exemption Determinations,
Pension and Welfare Benefits Administration,
U.S. Department of Labor.

[FR Doc. 92-12641 Filed 5-28-92; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Under OMB Review

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection must be submitted on or before June 29, 1992.

ADDRESSES: Send comments to Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., room 310, Washington, DC 20506 (202-786-0494) and Mr. Steve Semenuk, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., room 3002, Washington, DC 20503 (202-395-7316).

FOR FURTHER INFORMATION CONTACT: Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., room 310, Washington, DC 20506 (202) 786-0494 from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, extensions, or reinstatements. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what the form will be used for; (6) an estimate of the number of responses; (7) the frequency of response; (8) an estimate of the total number of hours needed to fill out the form; (9) an estimate of the total annual reporting and recordkeeping burden. None of these entries are subject to 44 U.S.C. 3504(h).

Category: Revisions

Title: Division of State Programs:
Guidelines for Exemplary Award Proposals.

Form Number: Not Applicable.

Frequency of Collection: Annual.

Respondents: State humanities councils applying for funding.

Use: Application for benefits by state humanities councils.

Estimated Number of Respondents: 23.

Frequency of Response: Annually.

Estimated Hours for Respondents to Provide Information: 40 per respondent.

Estimated Total Annual Reporting and Recordkeeping Burden: 60 hours.

Thomas S. Kingston,
Assistant Chairman for Operations.

[FR Doc. 92-12563 Filed 5-28-92; 8:45 am]

BILLING CODE 7535-01-M

Agency Information Collection Under OMB Review

AGENCY: National Endowment for the Humanities, NFATT.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection must be submitted on or before June 24, 1992.

ADDRESSES: Send comments to Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., room 310, Washington, DC 20506 (202-786-0494) and Mr. Steve Semenuk, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., room 3002, Washington, DC 20503 (202-395-7316).

FOR FURTHER INFORMATION CONTACT: Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., room 310, Washington, DC 20506 (202) 786-0494 from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, extensions, or reinstatements. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what the form will be used for; (6) an estimate of the number of responses; (7) the frequency of response; (8) an estimate of the total number of hours needed to fill out the form; (9) an estimate of the total annual reporting and recordkeeping burden. None of these entries are subject to 44 U.S.C. 3504(h).

Category: New Forms

Title: Applications and Instructions
Forms for the Dissertation Grants
Category.

Form Number: Not Applicable.

Frequency of Collection: Annual.

Respondents: Humanities doctoral students and scholars.

Use: Application for funding.

Estimated Number of Respondents:
19,100.

Frequency of Response: Once.

Estimated Hours for Respondents to Provide Information: 2.67 per respondent.

Estimated Total Annual Reporting and Recordkeeping Burden: 51,022 hours.

Thomas S. Kingston,

Assistant Chairman for Operations.

[FR Doc. 92-12564 Filed 5-28-92; 8:45 am]

BILLING CODE 7536-01-M

Agency Information Collection Under OMB Review

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection must be submitted on or before June 29, 1992.

ADDRESSES: Send comments to Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., room 310, Washington, DC 20506 (202-786-0494) and Mr. Steve Semenuk, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., room 3002, Washington, DC 20503 (202-395-7316).

FOR FURTHER INFORMATION CONTACT: Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., room 310, Washington, DC 20506 (202) 786-0494 from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, extensions, or reinstatements. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what the form will be used for; (6) an estimate of the number of responses; (7) the frequency of response; (8) an estimate of the total number of hours needed to fill out the form; (9) an estimate of the total annual reporting and recordkeeping burden. None of these entries are subject to 44 U.S.C. 3504(h).

Category: Extension

Title: Sample Certification Letter for NEH Federal Matching Funds.
Form Number: Not Applicable.

Frequency of Collection: On occasion.
Respondents: NEH Grantees with Matching Grants.

Use: Certification required for release of Federal Matching Funds.

Estimated Number of Respondents: 500.

Frequency of Response: On Occasion.
Estimated Hours for Respondents to Provide Information: .5 hours per respondent.

Estimated Total Annual Reporting and Recordkeeping Burden: 1,250 hours.

Category: Extension

Title: NEH Final Financial Status Report.

Form Number: Not Applicable.

Frequency of Collection: Once.

Respondents: All NEH institutional grantees.

Use: To provide optional format for final report of expenditures.

Estimated Number of Respondents: 1,100.

Frequency of Response: Once.

Estimated Hours for Respondents to Provide Information: 2 hours per respondent.

Estimated Total Annual Reporting and Recordkeeping Burden: 2,200 hours.

Thomas S. Kingston,

Assistant Chairman for Operations.

[FR Doc. 92-12565 Filed 5-28-92; 8:45 am]

BILLING CODE 7536-01-M

Humanities Panel; Meeting

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice of meetings.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, as amended), notice is hereby given that the following meeting of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20506:

FOR FURTHER INFORMATION CONTACT: David C. Fisher, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, DC 20506; telephone 202/786-0322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on 202/786-0282.

SUPPLEMENTARY INFORMATION: The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation of applications for financial assistance under the National

Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated September 9, 1991, I have determined that these meetings will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of Title 5, United States Code.

1. **Date:** June 15, 1992.

Time: 9 a.m. to 5 p.m.

Room: 315.

Program: This meeting will review applications for Elementary and Secondary Education, submitted to the Division of Education Programs, for projects beginning after December 1, 1992.

2. **Date:** June 23, 1992.

Time: 9 a.m. to 5 p.m.

Room: 315.

Program: This meeting will review applications for Elementary and Secondary Education, submitted to the Division of Education Programs, for projects beginning after December 1, 1992.

3. **Date:** June 29, 1992.

Time: 9 a.m. to 5 p.m.

Room: 430.

Program: This meeting will review applications for the Challenge Grant category received during the May 1, 1992 deadline, submitted to the Division of Public Programs, for projects beginning after December 1, 1992.

4. **Date:** June 30, 1992.

Time: 9 a.m. to 5 p.m.

Room: 315.

Program: This meeting will review applications for Elementary and Secondary Education, submitted to the Division of Education Programs, for projects beginning after December 1, 1992.

David C. Fisher,

Advisory Committee, Management Officer.

[FR Doc. 92-12562 Filed 5-28-92; 8:45 am]

BILLING CODE 7536-01-M

Literature Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel (Fellowships for Translators Section) to the National Council on the Arts will be held on June 18-19, 1992 from 9 a.m.-5 p.m. in room M-09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on June 19 from 1 p.m.-2 p.m. The topics will be policy discussion and guidelines review.

The remaining portions of this meeting on June 18 from 9 a.m.-5 p.m. and June 19 from 9 a.m.-1 p.m. and 2 p.m.-5 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: May 22, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92-12506 Filed 5-28-92; 8:45 am]

BILLING CODE 7537-01-M

President's Committee on the Arts and the Humanities; Meeting

Thursday, June 18, 1992 at 9 o'clock in the morning has been designated by the President's Committee on the Arts and the Humanities for Meeting XXVII. This meeting will take place at 1100 Pennsylvania Avenue, NW., suite 527, Washington, DC.

The Committee, charged with exploring ways to increase private support for the arts and the humanities, will have guest speaker Ken Burns, producer of the highly acclaimed Civil War series on public television, who will discuss the challenges and opportunities in developing private support for humanities projects.

Please call 202-682-5409 or 212-512-5957 if you expect to attend, as space is limited.

Dated: May 22, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92-12504 Filed 5-28-92; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Crafts Fellowships Section) to the National Council on the Arts will be held on June 15-18, 1992 from 9 a.m.-8 p.m. and June 19 from 10 a.m.-4 p.m. in room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on June 19 from 2:30 p.m.-4 p.m. The topics will be policy discussion and guidelines review.

The remaining portions of this meeting on June 15-18 from 9 a.m.-8 p.m. and June 19 from 10 a.m.-2:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of November 20, 1991, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel

chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: May 22, 1992.

Yvonne M. Sabine,

Director, Panel Operations, National Endowment for the Arts.

[FR Doc. 92-12505 Filed 5-28-92; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-029]

Yankee Atomic Electric Company, Yankee Nuclear Power Station; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an exemption to the requirement to perform periodic containment leak rate testing as required by 10 CFR part 50.54(o) and appendix J. This exemption would be granted to the Yankee Atomic Electric Company (Yankee or the licensee) for the Yankee Nuclear Power Station (Rowe) located in Franklin County, Massachusetts.

Environmental Assessment**Identification of Proposed Action**

The proposed amendment would grant an exemption from the requirements of 10 CFR 50 part 50.54(o) and appendix J to perform periodic containment (Vapor Container) leak rate testing. The licensee requested this exemption in their letter of May 11, 1992. This exemption is the proposed action being considered by the NRC.

The Need for the Proposed Action

The licensee's letter of May 11, 1992, stated that the plant has permanently ceased power operation and that all nuclear fuel has been removed from the containment to the spent fuel pool and therefore the requirements of 10 CFR 50.54(o) are no longer needed as there

could not be any possible release of fission products into the environment from reactor system pressure boundary releases.

Environmental Impacts of the Proposed Action

The proposed exemption does not have any effect on accident risk and the possibility of environmental impact is extremely remote.

The proposed exemption does not increase the probability or consequences of any accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure.

Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential non-radiological impacts, the proposed action does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the exemption. This would not reduce environmental impacts of plant operation and would not enhance the protection of the environment nor public health and safety.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in previous reviews for the Yankee Nuclear Power Station. The plant was licensed prior to the requirement for issuance of a Final Environmental Statement.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a

significant effect on the quality of the human environment.

For further details with respect to this action, see the application for exemption dated May 11, 1992, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the local public document room at Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Dated at Rockville, Maryland, this 21st day of May 1992.

For the Nuclear Regulatory Commission.
Seymour H. Weiss,
Director, Non-Power Reactors,
Decommissioning and Environmental Project
Directorate, Division of Reactor Projects—III,
IV, V, Office of Nuclear Reactor Regulation.
[FR Doc. 92-12598 Filed 5-28-92; 8:45 am]
BILLING CODE 7590-01-M

Advisory Committee on Nuclear Waste Working Group on the NRC's Review of the DOE Early Site Suitability Evaluation (ESSE) for the Yucca Mountain Geologic Repository; Meeting

The ACNW Working Group on the NRC staff's review of the DOE Early Site Suitability Evaluation (ESSE) for the Yucca Mountain Geologic Repository will hold a meeting on June 17, 1992, room P-110, 7920 Norfolk Avenue, Bethesda, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, June 17, 1992—8:30 a.m. until the conclusion of business.

The U.S. Department of Energy (DOE) published the Early Site Suitability Evaluation (ESSE) of the Yucca Mountain High-Level Radioactive Waste (HLW) Geologic Repository on February 21, 1992. Regulations in 10 CFR part 960 stipulate that DOE determine whether there are any conditions at a potential repository site, which would disqualify that site as an HLW repository. In the February 21, 1992 publication of the ESSE, the Director of DOE's Office of Civilian Radioactive Waste Management (OCRWM) requested any public comments on the ESSE by June 15, 1992. The NRC staff informed the DOE/OCRWM that NRC comments would be delayed until July 15, 1992.

The main purpose of this Working Group Meeting is to provide an opportunity for the ACNW to evaluate the NRC staff's review of the ESSE. Furthermore, this Working Group Meeting will provide an opportunity for

the DOE to gain insight into the NRC staff's approach in reviewing the ESSE.

Oral statements may be presented by members of the public with the concurrence of the ACNW Working Group Chairman; written statements will be accepted and made available to the Group. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept, and questions may be asked only by members of the Working Group, its consultants, and staff. Persons desiring to make oral statements should notify the ACNW staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the ACNW Working Group, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The ACNW Working Group will hear presentations by and hold discussions with the NRC staff and the DOE representatives, as appropriate.

Further information regarding the agenda for this meeting, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACNW staff member, Mr. Giorgio Gnugnoli (telephone 301/492-9851) between 8:30 a.m. and 5:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: May 20, 1992.
R.K. Major,
Chief, Nuclear Waste Branch.
[FR Doc. 92-12595 Filed 5-28-92; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-341]

Detroit Edison Company, (Fermi 2), (License No. NPF-43); Receipt of Petition for Director's Decision Under 10 CFR 2.206

Notice is hereby given that by letters dated April 21 and 23, 1992, Edwin A. Slavin, Jr., has requested on behalf of Carolyn Larry (Petitioner) that the Commission take action with regard to Detroit Edison Company (DECO). In the April 21 letter, Petitioner requests that "vigorous" enforcement action be taken against DECO, including assessment of

a substantial civil penalty; that Petitioner and her counsel be afforded an opportunity to be present during all enforcement, private, or "ex parte" phone conversations or meetings between NRC officials and DECO; and that reasonable expenses incurred by Petitioner and her counsel relating to the enforcement action be paid by DECO as part of its civil penalty. In the April 23 letter, Petitioner requests that an enforcement conference be convened to allow Petitioner and her counsel can attend and participate. As bases for the request in the April 21 letter, Petitioner asserts that on April 17, 1992, the Court of Appeals for the Sixth Circuit upheld a finding by the Secretary of Labor that DECO intentionally discriminated against Petitioner for raising concerns about breaches of security for safeguards information at the licensee's Fermi 2 facility and deceived her about her rights with regard to filing her discrimination complaint with the Department of Labor.

The request is being treated pursuant to 10 CFR 2.206 of the Commission's regulations. The request has been referred to the Director of Enforcement. By letter dated May 18, 1992, the request that Petitioner and her counsel be afforded an opportunity to be present during all enforcement, private, or "ex parte" phone conversations or meetings between NRC officials and DECO has been denied. As provided by section 2.206, appropriate action will be taken on the Petitioner's additional requests within a reasonable time.

A copy of the Petition is available for inspection at the Commission's Public Document Room at 2120 L Street, NW., Washington, DC 20555.

Dated Rockville, Maryland this 18th day of May, 1992.

For the Nuclear Regulatory Commission,
James Lieberman,

Director, Office of Enforcement.

[FR Doc. 92-12599 Filed 5-28-92; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 15000042 License No. TX-LO2627 EA 92-077]

**Panhandle N.D.T. & Inspection, Inc.
Borger, Texas; Order Suspending
General License (Effective
Immediately)**

I

Panhandle N.D.T. & Inspection, Inc. (Licensee) is the holder of Texas Department of Health Radioactive Material License No. LO2627. The license authorizes the possession and use of sealed sources of iridium-192 in industrial radiographic exposure devices

at temporary job sites within the State of Texas. Pursuant to 10 CFR 150.20(a), an Agreement State licensee is granted a general license by the U.S. Nuclear Regulatory Commission (NRC) to possess and use these radiographic exposure devices in non-Agreement States where the Nuclear Regulatory Commission maintains jurisdiction. Pursuant to 10 CFR 150.20(b)(1), before engaging in such use, Agreement State licensees are required to notify the NRC of their intent to conduct activities in non-Agreement States under the terms of the general license granted by 10 CFR 150.20(a). They are required to file four copies of NRC Form-241 and copies of their Agreement State license with the Regional Administrator of the NRC Regional Office in which the Agreement State that issued the license is located.

II

In January 1990, the NRC issued a Notice of Violation to the Licensee for failing to follow the requirements of 10 CFR 150.20(b). The Licensee had conducted activities in Oklahoma, a non-Agreement State, without notifying the NRC of its activities and without filing the required NRC Form-241. In a January 25, 1990, response to that Notice of Violation, the Licensee stated that its corrective action was to "Stay out of Oklahoma until I have notified the N.R.C."

On April 23 and 24, 1992, as part of an NRC investigation of the Licensee's activities in Oklahoma, apparent violations of regulatory requirements were identified. The Licensee's Assistant Radiation Safety Officer, and the Licensee's President, who is also the Radiation Safety Officer, provided to NRC investigators signed, sworn statements dated April 23 and 24, 1992, respectively, in which they admitted to having consciously violated the requirements of 10 CFR 150.20(b)(1) relative to activities conducted in Oklahoma in June 1991, December 1991 and March 1992. On each occasion, according to these individuals, a conscious decision was made to ignore the requirement to notify the NRC of their intent to use radiographic exposure devices in Oklahoma. In addition, these individuals indicated that in all probability they would not have notified the NRC of scheduled work in Oklahoma had they not become aware that the NRC was inquiring into the Licensee's recent activities in Oklahoma.

On April 28, 1992, a Confirmatory Action Letter (CAL) was issued to the Licensee to confirm the Licensee's agreement to discontinue licensed

activities in Oklahoma and other non-Agreement States.

III

Based on the Licensee's own acknowledgement above, the Licensee deliberately violated NRC requirements, thereby removing the opportunity for NRC to inspect licensee activities. Although the Licensee has agreed to discontinue licensed activities in non-Agreement States, which was confirmed by the April 28, 1992, CAL, in view of the Licensee's deliberate disregard for NRC requirements, the NRC cannot rely on the Licensee's commitments. Consequently, I lack the requisite reasonable assurance that the Licensee's current operations under the general license granted by 10 CFR 150.20(a) can be conducted in compliance with the Commission's requirements and that the health and safety of the public, including the Licensee's employees, will be protected. Therefore, the public health, safety, and interest require that the Licensee's authority to conduct activities in non-Agreement States under the general license granted by 10 CFR 150.20(a) be suspended. Furthermore, pursuant to 10 CFR 2.202, I find that the public health, safety, and interest require that this Order be effective immediately.

IV

Accordingly, pursuant to sections 81, 161b, 161i, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 150, It Is Hereby Ordered, effective immediately, That Panhandle N.D.T. & Inspection, Inc.'s authority to conduct activities in non-agreement states under the general license granted by 10 CFR 150.20(a) is suspended.

The Regional Administrator, Region IV, may, in writing, relax or rescind this order upon demonstration by the Licensee of good cause.

V

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit an answer to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. The answer may consent to this Order. Unless the answer consents to this Order, the answer shall, in writing and under oath or affirmation, specifically admit or deny each allegation or charge made in this Order and shall set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to

why the Order should not have been issued. Any answer or request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Chief, Docketing and Service Section, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Hearings and Enforcement at the same address, to the Regional Administrator, NRC Region IV, 611 Ryan Plaza Drive, Arlington, Texas 76011, and to the Licensee if the answer or hearing request is by a person other than the Licensee. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714.(d).

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

VI

In the absence of any request for hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated at Rockville, Maryland this 18th day of May, 1992.

For the Nuclear Regulatory Commission,
James Lieberman,
Director, Office of Enforcement.
[FR Doc. 92-12597 Filed 0-00-92; 8:45 am]
BILLING CODE 7590-01-M

NUCLEAR WASTE TECHNICAL REVIEW BOARD

Full Board Meeting

Pursuant to the Nuclear Waste Technical Review Board's (the Board) authority under section 5051 of the Nuclear Waste Policy Amendments Act (NWPA) of 1987 (Public Law 100-203), the Board will hold its summer Board meeting on July 7-8, 1992, in Denver, Colorado. The meeting, which is open to the public, will be held at the Stouffer Concourse Hotel, 3801 Quebec Street, Denver, Colo. 80207; (303) 399-7500.

The Board has invited Dr. John Bartlett, director of the Department of Energy's (DOE) Office of Civilian

Radioactive Waste Management to make a presentation on possible alternative strategies for making programmatic progress. Board interests center on what alternative strategies the DOE may be considering for moving the program forward, and how these potential changes could affect the characterization of Yucca Mountain and the entire waste management system.

The Board also has invited representatives of the M&O contractor to make presentations on their activities, including their organization and roles at both the Virginia and Nevada sites. Board members would like to gain a fuller understanding of the scope of M&O activities, especially in Nevada, and to review the status of ongoing and planned activities and studies.

The Nuclear Waste Technical Review Board was created by Congress in the Nuclear Waste Policy Amendments Act of 1987 (NWPA) to evaluate the technical and scientific validity of activities undertaken by the DOE in its program to manage the disposal of the nation's spent fuel and defense high-level waste. In that same legislation, Congress directed the DOE to characterize a site at Yucca Mountain, Nevada, for its suitability as a potential location for a permanent repository for that waste.

Transcripts of the meeting will be available on a library-loan basis from Victoria Reich, Board Librarian, beginning August 24, 1992.

For further information, contact Paula N. Alford, Director, External Affairs, 1100 Wilson Boulevard, suite 910, Arlington, Virginia 22209; (703) 235-4473.

Dated: May 26, 1992.
William D. Barnard,
Executive Director, Nuclear Waste Technical Review Board.
[FR Doc. 92-12539 Filed 5-28-92; 8:45 am]
BILLING CODE 6820-AM-M

OVERSEAS PRIVATE INVESTMENT CORPORATION

Agency Report Forms Under OMB Review

AGENCY: Overseas Private Investment Corporation.

ACTION: Request for Comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit information collection requests to OMB for review and approval, and to publish a notice in the *Federal Register* notifying the public that the Agency has made such a submission. The proposed form under review is summarized below.

DATES: Comments must be received on or before June 12, 1992. If you anticipate commenting on the form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Reviewer and the Agency Submitting Officer of your intent as early as possible.

ADDRESSES: Copies of the subject form and the request for review submitted to OMB may be obtained from the Agency Submitting Officer. Comments on the form should be submitted to the Agency Submitting Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:
OPIC Agency Submitting Officer:
Valerie J. Settles, Management Services, Overseas Private Investment Corporation, 1615 "M" Street, NW, suite 461, Washington, DC 20527; telephone (202) 457-7152.

OMB Reviewer: C. Marshall Mills, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; Telephone (202) 395-7340.

Summary of Form Under Review:

Type of Request: New form

Title: Preliminary Application for Financing

Form Number: None assigned-new form

Frequency of Use: Once per project

Type of Respondent: Business or other institutions

Reporting Hours: 1 hr. per application

Federal Cost: \$9,207

Authority for Information Collection:
Section 234 (d) of the Foreign Assistance Act of 1961, as amended.

Abstract (Needs and Uses):

The Preliminary Application for Financing is to be completed by U.S. companies interested in obtaining OPIC financial assistance. The form provides the necessary information for internal evaluation of the U.S. company's capability and resources to undertake an overseas project.

Dated: May 20, 1992.
James R. Offutt,
Office of Legislative Affairs.
[FR Doc. 92-12666 Filed 5-28-92; 8:45 am]
BILLING CODE 3210-01-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Railroad

Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

- (1) *Collection title:* Claim for Credit for Military Service (RUI Act)
- (2) *Form(s) submitted:* UI-44
- (3) *OMB Number:* 322-0072
- (4) *Expiration date of current OMB clearance:* Three years from date of OMB approval
- (5) *Type of request:* Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection
- (6) *Frequency of response:* On occasion
- (7) *Respondents:* Individuals or households
- (8) *Estimated annual number of respondents:* 300
- (9) *Total annual responses:* 300
- (10) *Average time per response:* .083 hours
- (11) *Total annual reporting hours:* 25
- (12) *Collection description:* Military service can be used under certain conditions for entitlement to an extended or accelerated unemployment benefit period provided for under Section 2(c) of the Railroad Unemployment Insurance Act. The form will obtain information about the applicant's claimed military service.

Additional information or comments: Copies of the proposed forms and supporting documents can be obtained from Dennis Eagan, the agency clearance officer (312-751-4693). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611-2092 and the OMB reviewer, Laura Oliven (202-395-7136), Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

Dennis Eagan,
Clearance Officer.

[FR Doc. 92-12573 Filed 5-28-92; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-18727; 811-4013]

GEICO Tax-Advantaged Series Trust; Notice of Application

May 22, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

Applicant: GEICO Tax-Advantaged Series Trust.

Relevant Act Sections: Section 8(f) of the Act.

Summary of Application: Applicant seeks an order declaring that it has ceased to be an investment company.

Filing Date: The application was filed on April 10, 1991, amended on June 19, 1991, and a supplemental letter was received on May 6, 1992.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 16, 1992, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 361 Whitney Avenue, Holyoke, Massachusetts 01040.

FOR FURTHER INFORMATION CONTACT: Nicholas D. Thomas, Staff Attorney, at (202) 504-2263, or Elizabeth G. Osterman, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a Massachusetts business trust and an open-end diversified management company registered under the Act. On May 4, 1984, applicant filed a Notification of Registration on Form N-8A pursuant to section 8(a) of the Act. On May 15, 1984, applicant filed a registration statement on Form N-1A under section 8(b) of the Act and under the Securities Act of 1933. The registration statement was declared effective on July 18, 1984. Applicant's initial public offering commenced on July 26, 1984.

2. Due to changes in the financial markets and applicant's small size,

applicant determined that continued operation would be uneconomical. Accordingly, on December 18, 1990, applicant's adviser, Monarch Investment Services Company, Inc. ("MISC"), sent a letter to applicant's shareholders advising them of applicant's intention to liquidate. In response to that letter, all of applicant's outstanding shares were redeemed by February 13, 1991. Because all of the redemptions were voluntary, no formal Trustee action was required.

3. Applicant's liquidation expenses will be borne by MISC.

4. Applicant has no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-12593 Filed 5-28-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18726; 811-3262]

Monarch Investment Series Trust; Notice of Application

May 22, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

Applicant: Monarch Investment Series Trust.

Relevant Act Sections: Section 8(f) of the Act.

Summary of Application: Applicant seeks an order declaring that it has ceased to be an investment company.

Filing Date: The application was filed on April 10, 1991, amended on September 23, 1991, and a supplemental letter was received on May 6, 1992.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 16, 1992, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's

interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, 361 Whitney Avenue, Holyoke, Massachusetts 01040.

FOR FURTHER INFORMATION CONTACT: Nicholas D. Thomas, Staff Attorney, at (202) 504-2263, or Elizabeth G. Osterman, Branch Chief, at (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a Massachusetts business trust and an open-end diversified management company registered under the Act. On September 21, 1981, applicant filed a Notification of Registration on Form N-8A pursuant to section 8(a) of the Act. On the same date, applicant filed a registration statement on Form N-1A under section 8(b) of the Act and under the Securities Act of 1933. The registration statement was declared effective on December 31, 1981. Applicant's initial public offering commenced on February 11, 1982.

2. Due to changes in the financial markets and applicant's small size, applicant determined that continued operation would be uneconomical. Accordingly, on December 18, 1990 and January 18, 1991, applicant's adviser, Monarch Investment Services Company, Inc. ("MISC"), sent letters to applicant's shareholders advising them of applicant's intention to liquidate. By February 28, 1991, all of applicant's outstanding shares, including 687,673 shares owned by MISC, had been redeemed. Because all of the redemptions were voluntary, no formal Trustee action was required.

3. Applicant's liquidation expenses will be borne by MISC.

4. Applicant has no shareholders, assets or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 92-12592 Filed 5-28-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18725; 812-7879]

Nations Fund, et al.; Notice of Application

May 22, 1992.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

Applicants: Nations Fund (formerly MarketMaster Trust) (the "Trust"), Hatteras Funds, Inc. d/b/a Nations Fund Portfolios (the "Company"), and other existing or future registered open-end management investment companies for which the Distributor and/or TBCA (as defined below) serves in the future as distributor (the "Funds"); ¹ Funds Distributor, Inc. (the "Distributor"); and The Boston Company Advisors, Inc. ("TBCA").

Relevant Act Sections: Exemption requested pursuant to section 6(c) of the Act from the provisions of sections 2(a)(32), 2(a)(35), 22(c), and 22(d) of the Act and rule 22c-1 thereunder.

Summary of Application: Applicants seek an order that would permit them to impose a contingent deferred sales charge ("CDSC") on the redemption of certain shares and to waive the CDSC in certain specified instances.

Filing Dates: The application was filed on February 21, 1992, and amended and restated on April 30, 1992 and May 19, 1992.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 16, 1992, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and

¹ Existing Funds for which the Distributor and/or TBCA serve as distributor, but that are not named as applicants, do not presently intend to rely on the requested order. Such Funds reserve the right, however, to rely on the order in the future if they subsequently decide to impose a CDSC.

the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, c/o Patricia L. Bickimer, The Boston Company Advisors, Inc., Exchange Place, EX 04B, Boston, Massachusetts 02109.

FOR FURTHER INFORMATION CONTACT: James E. Anderson, Law Clerk, at (202) 272-7027, or C. David Messman, Branch Chief, at (202) 272-3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. The Trust, a Massachusetts business trust, and the Company, a Maryland corporation, are open-end management investment companies registered under the Act. TBCA serves as the administrator to, and the Distributor serves as the sponsor and distributor of, the Funds. NationsBank of Georgia, N.A. serves as investment adviser to the Trust. NationsBank of North Carolina, N.A. serves as investment adviser to all of the Company's series except the Nations Prime Portfolio and Nations Treasury Portfolio, both of which are advised by NationsBank of Texas, N.A.

2. As permitted by an existing exemptive order,² the Trust proposes to offer Trust A, Trust B, and Investor A classes of shares of its following portfolios: Nations Money Market Fund, Nations Government Fund, and Nations Tax Exempt Fund. The Trust also proposes to offer Trust A, Trust B, Investor A, and Investor B classes of shares of its Nations Value Fund, Nations Income Equity Fund, Nations Short-Intermediate Government Fund, Nations Managed Bond Fund, Nations Municipal Income Fund, Nations Georgia Municipal Bond Fund, Nations Maryland Municipal Bond Fund, Nations South Carolina Municipal Bond Fund, and Nations Virginia Municipal Bond Fund. As permitted by the Multi-class Order, the Company proposes to offer Trust A, Trust B, and Investor A classes of shares of its Nations Prime Portfolio, Nations Treasury Portfolio, and Nations Tax-Exempt Money Market Portfolio.

² Investment Company Act Release Nos. 18507 (Jan. 30, 1992) (notice) and 18558 (Feb. 19, 1992) (the "Multi-class Order").

The Company also proposes to offer Trust A, Trust B, Investor A, and Investor B classes of shares of its Nations Government Securities Portfolio, Nations Equity Income Portfolio, and Nations International Equity Portfolio.

3. Applicants will impose a CDSC upon the Investor B shares of the Funds if they are redeemed within twelve months after the end of the calendar month in which the purchase order was accepted. The CDSC would be equal to one percent of the lesser of (a) the net asset value of the shares at the time of purchase, or (b) the net asset value of the shares at the time of redemption. The CDSC would be deducted from the redemption proceeds otherwise payable to the shareholder. The purpose of the CDSC is to compensate the Distributor or TBCA for commissions advanced to dealers.

4. No CDSC will be imposed on: (a) Amounts attributable to increases in the net asset value per share; (b) shares accrued through reinvestment of income dividends or capital gain distributions; or (c) shares held for more than 12 months after the end of the calendar month in which the purchase order was accepted. In determining whether a CDSC is payable, shares or amounts representing shares that are not subject to a CDSC are deemed to be redeemed first, and other shares or amounts are then redeemed in the order purchased. No CDSC will be imposed on any shares purchased prior to the effective date of the requested order.

5. The CDSC may be waived in the following circumstances: (a) Redemptions following the death or disability (as defined in the Internal Revenue Code of 1986, as amended) of a shareholder; (b) to the extent that a redemption represents a minimum required distribution from an IRA or other retirement plan to a shareholder who has reached age 70½; (c) redemption of shares owned by current employees of the investment adviser to the Funds or by current or former trustees or directors of the Funds or other investment companies advised by such investment adviser; (d) redemptions effected pursuant to the right of a Fund to liquidate a shareholder's account if the aggregate net asset value of shares held in the account is less than the minimum account size; or (e) redemptions of shares in connection with the combination of a Fund with any other registered investment company by merger, acquisition of assets, or by any other transaction.

6. The amount of the CDSC and the

timing of its imposition may vary (as may the number and designation of classes of shares subject to the CDSC) with respect to the future implementation of the CDSC arrangements by the Funds, provided that such arrangements comply with the condition set forth below. Any changes in the specified terms of the CDSC will be reflected in the prospectus of such Funds. In addition, any change will not affect shares that already have been issued unless such change results in terms more favorable to the existing shareholders, such as reducing the amount of the CDSC or reducing the period during which a redemption would be subject to a CDSC. Furthermore, in accordance with proposed rule 6c-10 under the Act, the sum of any front-end sales charge and CDSC applied to shares of any such Fund will not exceed the maximum sales charge that could have been imposed at the time the shares were purchased under Article III, section 26(d) of the Rules of Fair Practice of the National Association of Securities Dealers, Inc.

Applicants' Legal Analysis

Applicants submit that the proposal to impose a CDSC is fair and is in the public interest and the interest of the Funds' shareholders, and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Consequently, applicants request an order of the Commission pursuant to section 6(c) of the Act for an exemption from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and rule 22c-1 thereunder to the extent necessary to permit the proposed CDSC arrangement.

Applicants' Condition

Applicants agree to the following express condition to the requested exemptive relief:

If the requested exemptive relief is granted, applicants agree to comply with the provisions of proposed rule 6c-10 under the Act, Investment Company Act Release No. 16619 (Nov. 2, 1988), as currently proposed and as it may be repropounded, adopted or amended.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 92-12591 Filed 5-28-92; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18724; 811-5596]

North Dakota Double Tax-Exempt Bond Fund, Inc.; Notice of Application

May 22, 1992.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

Applicant: North Dakota Double Tax-Exempt Bond Fund, Inc.

Relevant Act Sections: Section 8(f).

Summary of Application: Applicant seeks an order declaring that it has ceased to be an investment company.

Filing Date: The application was filed on April 22, 1992.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on June 16, 1992, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, suite 206, South Tower, 600 Seventeenth Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Maura A. Murphy, Staff Attorney, at (202) 272-7779, or Nancy M. Rappa, Branch Chief, at (202) 272-3030 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant, a Maryland corporation, is an open-end non-diversified management investment company. On June 24, 1988, Applicant filed a notification of registration pursuant to section 8(a) of the Act and a registration statement pursuant to the Securities Act of 1933. The registration statement was declared effective on September 28, 1988, and applicant commenced public offering of its shares on that date.

2. On January 21, 1992, applicant's Board of Directors approved and ratified an Agreement and Plan of Reorganization (the "Plan"), made as of October 22, 1991, by and among applicant, Funds Management Corporation, applicant's investment adviser ("Funds Management"), ND Tax-Free Fund, Inc. ("ND Fund"), and ND Holdings, Inc., ND Fund's sponsor ("ND Holdings").

3. Proxy materials, dated December 27, 1991, relating to a special meeting of shareholders were mailed to shareholders on or about January 22, 1992. These proxy materials were filed with the Commission on February 3, 1992.

4. In the proxy materials, applicant's Board of Directors recommended approval of the Plan so that applicant's shareholders could seek substantially similar investment objectives within a larger fund, which might also realize certain economies of scale and attendant cost savings.

5. On February 21, 1992, applicant's shareholders approved the Plan at the special meeting of shareholders.

6. As of February 28, 1992, there were 513,264 shares outstanding of applicant, with an aggregate net asset value of \$5,235,293 and a per share net asset value of \$10.20.

7. Pursuant to the Plan, all of applicant's assets were transferred to ND Fund as of February 28, 1992, in exchange for shares of ND Fund and the assumption of certain identified liabilities of applicant. The ND Fund shares were distributed *pro rata* to applicant's shareholders, and all issued and outstanding shares of applicant were simultaneously cancelled on the applicant's books.

8. Funds Management and ND Holdings incurred the costs of entering into and carrying out the Plan and the accounting and legal fees relating to the proxy solicitation. The costs of the proxy solicitation, printing, mailing, and related expenses were allocated between Funds Management and ND Holdings in proportion to the net assets, respectively, of applicant and ND Fund.

9. Applicant has no other assets or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant has no remaining shareholders and does not propose to engage in any business activities other than those necessary for the winding-up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 92-12594 Filed 5-28-92; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-25545]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

May 22, 1992.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by June 15, 1992 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Eastern Utilities Associates (70-6583)

Eastern Utilities Associates ("EUA"), One Liberty Square, P.O. Box 2333, Boston, Massachusetts 02107, a registered holding company, has filed a post-effective amendment to its application-declaration under sections 6(a), 7 and 12(c) of the Act and Rules 42 and 50(a)(5) thereunder.

By orders dated December 8, 1979 (HCAR No. 21329), May 5, 1981 (HCAR No. 22039), November 1, 1982 (HCAR No. 22685), September 14, 1984 (HCAR No. 23421), May 6, 1986 (HCAR No. 24087), November 17, 1988 (HCAR No. 24747) and October 12, 1990 (HCAR 25166), the Commission authorized EUA

to issue and sell and/or acquire and sell, through December 31, 1992, up to 4.8 million shares of its common stock under EUA's Dividend Reinvestment and Common Share Purchase Plan ("Plan"), under an exception from competitive bidding. Common stock to be issued and sold by EUA under the Plan would be authorized but unissued shares, and/or shares acquired on the open market. As of March 31, 1992, EUA has issued and sold 4,376,042 shares of its authorized common stock under the Plan.

EUA now proposes to issue and sell (or, in the case of shares purchased on the open market, to acquire and sell) from time-to-time through December 31, 1994, the 423,958 shares of common stock remaining of the 4.8 million shares previously authorized and up to an additional 1 million shares of its common stock under the Plan. Shares purchased by the participants under the Plan will be either (1) shares originally issued out of the shares authorized but unissued under EUA's Declaration of Trust, or (2) shares purchased on the open market by an agent through the application of dividends and optional cash payments from participants or other funds made available by EUA subject to applicable regulatory requirements. EUA proposes to issue and sell or acquire and sell its common stock pursuant to the Plan under an exception from the competitive bidding requirements of Rule 50 under subsection (a)(5) thereunder.

The proceeds from the sale of common stock under the Plan will be added to EUA's general funds and will be used for any or all of the following purposes: (1) Investment in EUA's subsidiary companies, through purchases of additional shares of their capital stocks, capital contributions, loans or open-account advances; (2) payment of any indebtedness of EUA; and/or (3) EUA's general corporate purposes.

Entergy Corporation, et al. (70-7684)

Entergy Corporation ("Entergy"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, and its electric public-utility subsidiary company, Entergy Power, Inc. ("EPI"), 425 West Capitol Street, Little Rock, Arkansas 72201, have filed a post-effective amendment under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and Rule 45 thereunder to their application-declaration previously filed under sections 6(a), 7, 9(a), 10, 12(b), 12(c), 12(d), 12(f) and 13(b) of the Act and Rules 42, 43, 45, 50, 86, 87, 90, and 91 thereunder.

By order dated August 27, 1990 (HCAR No. 25136) ("Order"), Entergy was authorized to organize EPI for the purpose of participating as a supplier of energy in the bulk power markets. The Order, among other things, further authorized EPI to enter into a Loan Agreement ("Agreement") with Entergy, whereby EPI would borrow and reborrow, from time-to-time through June 30, 1992, up to an aggregate principal amount of \$200 million outstanding at any one time. Borrowings by EPI from Entergy under the Agreement are evidenced by a note ("Note") representing the obligation of EPI to pay the full amount of the original loan commitment or, if less, the aggregate unpaid principal amount of all loans made by Entergy, plus accrued interest.

The Note matures on December 31, 1995, bears interest, payable quarterly, on the unpaid principal amount at the rate of interest announced by Morgan Guaranty Trust Company of New York in New York, New York from time-to-time as its prime rate, and may be prepaid at any time without premium or penalty in whole or in part. EPI and Entergy entered into the Loan Agreement, and EPI issued the Note, on August 28, 1990.

EPI and Entergy now propose to extend the borrowing period and to shorten the related maturity period under the Agreement to June 30, 1995, and to increase the authorized borrowing amount by \$50 million to an aggregate of \$250 million. To effect this change, EPI and Entergy will enter into an amendment to the Agreement ("Amendment"), which will: (1) Extend the expiration date of the borrowing period under the Agreement of June 30, 1995; (2) increase the authorized borrowing amount by \$50 million to an aggregate outstanding amount of \$250 million; and (3) provide for the issuance of a new note ("New Note") in the principal amount of \$250 million and stated to mature on June 30, 1995. The Amendment will also state that the New Note shall replace and supersede the Note and represent the borrowings of EPI from Entergy under the Loan Agreement. Except as specifically amended, the Agreement shall continue in full force and effect, and the terms as authorized in the Order will remain unchanged.

Entergy Corp., et al. (70-7947)

Entergy Corporation ("Entergy"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, and its wholly owned nonutility subsidiary companies, Entergy Services, Inc. ("Services"), 225 Baronne Street,

New Orleans, Louisiana 70112, and Electec, Inc. ("Electec"), 639 Loyola Avenue, New Orleans, Louisiana 70113, have filed an application-declaration under sections 2(a)(8), 6(a), 7, 9(a), 10, 12(b), 12(c) and 13(b) of the Act and Rules 40, 43, 45, 87, 90 and 91 thereunder.

Entergy and Electec propose to organize and finance a new nonutility subsidiary of Electec ("NEWCO") that will engage in the business of an energy services company, providing general energy management services and entering into specific ventures relating to energy efficiency. Entergy and Electec propose that NEWCO's first such specific venture will be investment in Systems and Service International, Inc. ("SASI"), a company which is in the business of developing, manufacturing and marketing energy efficient lighting technologies for commercial and industrial applications. NEWCO also proposes to assume the distribution of certain of SASI's products.

Electec proposes to issue, and Entergy proposes to acquire from time to time through December 31, 1994, up to 17,000 shares of Electec's common stock (no par value) for an aggregate consideration not to exceed \$17 million. Electec proposes to use the proceeds from the sale of its stock to purchase from time to time through December 31, 1994, up to 17,000 shares of NEWCO common stock (no par value) for an aggregate consideration not to exceed \$17 million. NEWCO proposes to use the proceeds from the sales of its stock to Electec to start up its energy management services business, principally through the acquisition of American Systems and Service, Inc. ("American SASI"), a U.S. distribution subsidiary of SASI, and to fund its investments in SASI.

Specifically, NEWCO proposes to: (1) Acquire the assets of American SASI, together with certain key personnel, for a consideration of \$4.166 million, subject to certain adjustments; (2) enter into a 30 year exclusive product distribution agreement with SASI covering the entire U.S.; (3) make a secure demand loan of \$2.7 million of SASI with interest at the prime rate of Citibank, N.A.; and (4) acquire a 9.95% common stock interest in SASI for \$4.634 million, through the purchase of an estimated 947 shares of SASI common stock (\$0.01 par value) ("SASI Stock"), from existing SASI shareholders.

The SASI Stock purchase agreement entitles NEWCO to elect at least one member of SASI's board of directors, currently composed of seven persons, and provides NEWCO the right to

maintain its proportionate interest by buying shares in the event SASI issues additional shares, and by causing SASI to repurchase a portion of the SASI Stock if it repurchases other of its outstanding shares, in order to maintain NEWCO's interest in SASI at a level below 10%. Authority is requested for all such future sales of SASI Stock by NEWCO, and for such future purchases by NEWCO of additional shares, through December 31, 1994, if the price per share is not in excess of \$4.894 and the aggregate purchase price for all such shares does not exceed \$1 million. NEWCO states that it will use its best efforts to divest its equity interest in SASI and cease representation on SASI's board upon the earlier to occur of (a) NEWCO ceasing to be a distributor of SASI's products, or (b) January 1, 2003.

Paul Williams, a key employee of American SASI, will become president of NEWCO after consummation of the proposed transactions. At that time, Williams will hold a 30.26% common stock interest in SASI. It is proposed that he transfer voting control of his SASI stock to a trust. Entergy states that this trust arrangement will leave Entergy without the power to control or exert a controlling influence over SASI indirectly through Williams. Consequently, Entergy requests that the Commission declare that, so long as this trust agreement shall be in effect, SASI will not be a "subsidiary company" of Entergy under section 2(a)(8)(A) of the Act.

In conjunction with its energy management and efficient lighting business, NEWCO may provide customer financing through loans in a principal amount not to exceed \$100 million outstanding at any one time. To fund this financing, NEWCO proposes to issue to Entergy, from time to time through December 31, 1994, notes ("Notes") in an aggregate principal amount not to exceed \$100 million outstanding at any one time. The Notes may be secured or unsecured and will bear interest at fixed rates determined at the time of issuance based on Entergy's allocable funding costs (but in no event greater than 16% per annum or maximum rates as permitted by applicable law), will be prepayable at any time without penalty, and will mature no later than five years from issue, any such maturity to be extendable upon the mutual agreement of Entergy and NEWCO, subject to the receipt of any necessary Commission approval. NEWCO may assign evidences of customer indebtedness to

Entergy in consideration of reduction in the amount of outstanding Notes.

Finally, Services proposes to enter into an agreement with NEWCO whereby Services will provide certain services to NEWCO (including, without limitation, management, financial, accounting, payroll and legal) at cost.

Consolidated Natural Gas Co., et al. (70-8000)

Consolidated Natural Gas Company ("Consolidated"), a registered holding company, CNG Tower, Pittsburgh, Pennsylvania 15222-3199, and its wholly owned nonutility subsidiary companies, CNG Energy Company ("Energy"), CNG Research Company ("Research") and Consolidated Natural Gas Service Company, Inc. ("Services"), located at CNG Tower, Pittsburgh, Pennsylvania 15222-3199; CNG Coal Company ("Coal"), CNG Trading Company ("Trading"), CNG Producing Company ("Producing"), and its subsidiary CNG Pipeline Company ("Pipeline"), CNG Tower, 1450 Poydras Street, New Orleans, Louisiana 70112-6000; CNG Transmission Corporation ("Transmission") and CNG Storage Service Company ("Storage"), 445 West Main Street, Clarksburg, West Virginia 26301; and Consolidated's wholly owned public-utility subsidiary companies, The Peoples Natural Gas Company ("Peoples"), CNG Tower, Pittsburgh, Pennsylvania 15222-3199; The East Ohio Gas Company ("East Ohio"), 1717 East Ninth Street, Cleveland, Ohio 44115; The River Gas Company ("River Gas"), 324 Fourth Street, Marietta, Ohio 45750; Virginia Natural Gas, Inc. ("Virginia Gas"), 5100 East Virginia Beach Boulevard, Norfolk, Virginia 23501-3488; Hope Gas, Inc. ("Hope Gas"), P.O. Box 2868 Clarksburg, West Virginia 26302-2868; and West Ohio Gas Company ("West Ohio"), 319 West Market Street, Lima Ohio 45802 ("Subsidiaries"), have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12(b) and 12(c) of the Act and Rules 43, 45 and 50(a)(5) thereunder.

Consolidated proposes to issue and sell commercial paper pursuant to an exception from competitive bidding, in an aggregate principal amount not to exceed \$800 million outstanding at any one time, from time-to-time through June 30, 1993 ("Commercial Paper"). Such Commercial Paper may be domestic commercial paper ("Domestic Paper") and/or European commercial paper ("Euro Paper"). Domestic Paper will have varying maturities of not more than 270 days and Euro Paper will have maturities from 7 to 183 days. Consolidated proposes to sell Domestic Paper or Euro Paper, whichever provides

the lower cost in a given transaction, but only so long as the discount rate or the effective interest cost on the date of sale does not exceed the prime rate of interest from a commercial bank.

To the extent that it becomes impractical to sell the Commercial Paper due to market conditions or otherwise, Consolidated proposed to borrow, repay and reborrow, without collateral under back-up bank lines of credit, in an aggregate principal amount not to exceed \$600 million through June 30, 1993 ("Loans"). The Loans will mature not more than one year from the date of each borrowing, will be prepayable in whole or part at any time, and will bear interest at a rate not to exceed the prime commercial rate of interest of the lending bank in effect on the date of each borrowing.

It is also proposed that through June 30, 1993, Consolidated provide financing to the Subsidiaries in an aggregate amount not exceeding \$1,050 million in the form of open account advances, long-term loans and/or capital stock purchases. Individual Subsidiary financing by Consolidated would not exceed the following amounts: (1) Transmission, \$525 million; (2) East Ohio, \$230 million; (3) Peoples, \$100 million; (4) Virginia Gas, \$35 million; (5) Hope Gas, \$35 million; (6) Trading, \$50 million; (7) Storage, \$20 million; (8) West Ohio, \$15 million; (9) Service, \$15 million; (10) Producing, \$12 million; (11) River Gas, \$7 million; (12) Coal, \$5 million; and (13) Research, \$1 million.

Open account advances ("Advances"), may be made, repaid and remade on a revolving basis, and all such Advances will be repaid within one year from the date of the first Advance to the borrowing Subsidiary with interest at the same effective rate of interest as Consolidated's weighted average effective rate of commercial paper and/or revolving credit borrowings. If no such borrowings are outstanding, the interest rate shall be predicated on the Federal Funds' effective rate of interest as quoted by the Federal Reserve Bank of New York. Advances will be made through the CNG System money pool authorized under a Commission order dated June 12, 1986, (HCAR No. 24128).

Long-term loans will mature over a period of time not in excess of 30 years, with the interest rate predicated on and substantially equal to the effective cost of money to Consolidated obtained through its then most recent long-term debt financing. In the event Consolidated obtained through its then most recent long-term debt between May 1, 1992 and June 30, 1993, long-term

borrowings of Subsidiaries will be tied to the Salomon Brothers Inc. Bond Market Roundup dated nearest to the time of first takedown. Such rate will be adjusted to match Consolidated's cost of borrowing if Consolidated subsequently issues long-term debt within one year of the date of first takedown. Should Consolidated not issue long-term debt during the subsequent year period, the indicative rate at the time of first takedown will be used for the life of the security.

Capital stock will be purchased from the Subsidiaries at its par value (book value in the case of Virginia Gas). Capital stock transactions between Consolidated and its utility Subsidiaries, Hope Gas, Peoples, Virginia Gas, West Ohio Company, East Ohio and River Gas, would occur under an exemption pursuant to Rule 52 and are not part of the authorization requested herein.

Producing proposes from time to time through June 30, 1993, to provide to Pipeline up to an aggregate of \$1 million of financing through short-term loans in the form of open account advances and/or long-term loans evidenced by non-negotiable notes (documented by book entry only) and/or the purchase of up to 10,000 shares of common stock, \$100 par value, of Pipeline. The open account advances and long-term loan will bear interest at rates equal to the cost of money to Producing through its borrowings from Consolidated.

Authority is also requested to increase any Subsidiary's authorized common stock as needed to accommodate proposed stock sales and to provide for future issues, any such increase being limited to a number of shares calculated by dividing the aggregate financing proposed for such Subsidiary in the application-declaration by the par value (book value in the case of Virginia Gas) of such Subsidiary's common stock rounded up to the nearest hundred.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 92-12590 Filed 5-28-92; 9:45 am]

BILLING CODE 8010-1-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of Reporting Requirements Submitted for Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C.

Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the *Federal Register*, notifying the public that the agency has made such a submission.

DATES: Comments should be submitted within 30 days of this publication in the *Federal Register*. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (S.F. 83), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Cleo Verbillis, Small Business Administration, 409 3RD Street, SW., 5th Floor, Washington, DC 20416, Telephone: (202) 205-6629.

OMB Reviewer: Gary Waxman, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

Title: Small Business Administration Office of the Inspector General Review of the 7(J) Management and Technical Assistance Survey

SBA Form No.: n/a

Frequency: One time survey

Description of Respondents: Recipients of SBA 7(J) Assistance

Annual Responses: 467

Annual Burden: 117

Title: SBIC Internal Control Questionnaire

SBA Form No.: 1828

Frequency: Biennially

Description of Respondents: Small Business Investment Companies

Annual Responses: 200

Annual Burden: 100

Dated: May 21, 1992.

Cleo Verbillis,

Acting, Chief, Administrative Information Branch.

[FR Doc. 92-12561 Filed 5-28-92; 8:45 am]

BILLING CODE 8025-01-M

[Declaration of Disaster Loan Area #2552]

Republic of the Marshall Islands; Amendment #1; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended in accordance with an amendment dated April 27, 1992, to the President's major disaster declaration of

February 7, 1992, to include Ailinglaplap Atoll in the Republic of the Marshall Islands as a disaster area as a result of damages caused by Tropical Storm Axel which occurred on January 6, 1992.

Because the termination date for filing applications for physical damage closed on April 9, 1992, prior to the Notice of Amendment cited above, applications for physical damage for victims located on the above-named Atoll will be accepted until the close of business on May 27, 1992, 30 days from the date of amendment. The termination date for filing applications for economic injury remains the close of business on November 9, 1992.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: May 5, 1992.

Alfred E. Judd,

Acting Assistant Administrator for Disaster Assistance.

[FR Doc. 92-12560 Filed 5-28-92; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 1631]

The Commission for Broadcasting to the Peoples Republic of China Meeting

ACTION: Notice of meeting.

SUMMARY: The Commission will hold public meetings.

DATE: June 4, 1992, 9:30 a.m., to 4 p.m.

ADDRESS: Hotel Lexington, 511 Lexington Avenue, New York, New York 10017.

DATE: June 5, 1992, 9 a.m. to 5:30 p.m.

ADDRESS: Lafayette Swissotel, 1 Avenue Lafayette, Boston, MA 02111.

FOR FURTHER INFORMATION CONTACT: Marge Cook, Deputy Executive Director, 703-235-9000.

Dated: May 11, 1992.

Marjorie S. Cook,

Deputy Executive Director.

[FR Doc. 92-12588 Filed 5-28-92; 8:45 am]

BILLING CODE 4710-10-M

THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

National Advisory Board Meeting

AGENCY: Thrift Depositor Protection Oversight Board.

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App., announcement is hereby published for a

meeting of the National Advisory Board. The meeting is open to the public. Please note that elsewhere in this issue of the *Federal Register* is a meeting notice for the National Housing Advisory Board which will meet in the afternoon following the National Advisory Board meeting.

DATES: The meeting is scheduled for Tuesday, June 9, 9 a.m. to 12 noon.

ADDRESSES: The meeting will be held in Salon D, South Lobby of the Holiday Inn Crowne Plaza, 775 12th St., NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT:

Jill Nevius, Committee Management Officer, Thrift Depositor Protection Oversight Board, 1777 F Street, NW., Washington, DC 20232, 202/786-9675.

SUPPLEMENTARY INFORMATION: Pursuant to section 21A (d) of the Federal Home Loan Bank Act, the Thrift Depositor Protection Oversight Board has established a National Advisory Board and six Regional Advisory Boards to advise the Oversight Board and the RTC on the disposition of real property assets of the Corporation.

Agenda

A detailed agenda will be available at the meeting. The meeting will include briefings from the chairmen of the six regional advisory boards on their respective meetings held throughout the country between April 28 and May 21, 1992. Discussion will focus on the key topics from the regional meetings: local real estate market conditions, hard-to-sell assets, and the RTC REOMS system.

Statements

Interested persons may submit, in writing, data, information, or views on the issues pending before the National Advisory Board prior to or at the meeting. Seating is available on a first come first served basis for this opening meeting.

Dated: May 26, 1992.

Jill Nevius,

Committee Management Officer.

[FR Doc. 92-12554 Filed 5-28-92; 8:45 am]

BILLING CODE 2222-01-M

National Housing Advisory Board Meeting

AGENCY: Thrift Depositor Protection Oversight Board.

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act 5 U.S.C. app., announcement is hereby published for

the meeting National Housing Advisory Board. The meeting is open to the public. Please note that elsewhere in this issue of the Federal Register is a meeting notice for the National Advisory Board which will meet in the morning prior to the National Housing Advisory Board meeting.

DATES: The meeting is scheduled for Tuesday, June 9, from 1 to 3 p.m.

ADDRESSES: The meeting will be held in Salon D, South Lobby of the Holiday Inn Crowne Plaza, 775 12th St., NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jill Nevius, Committee Management Officer, Thrift Depositor Protection Oversight Board, 1777 F Street, NW., Washington, DC 20232, 202/786-9675.

SUPPLEMENTARY INFORMATION: In accordance with section 21A(d)(2) of the Federal Home Loan Bank Act, as amended by the Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991, the Thrift Depositor Protection Oversight Board has established a National Housing Advisory Board to advise the Oversight Board on policies and programs related to the provision of affordable housing. The National Housing Advisory Board consists of the Secretary of the Housing and Urban Development and the chairmen of the regional advisory boards established under section 21A(d)(3) of the Federal Home Loan Bank Act. The charter for the National Housing Advisory Board was filed on February 20, 1992.

Agenda

A detailed agenda will be available at the meeting. The meeting will include briefings from the Board's chairman and from the chairmen of the six regional advisory boards on their respective meetings held throughout the country between April 28 and May 21, 1992. Discussions will focus on the RTC's single-family and multi-family housing dispositions programs.

Statements

Interested persons may submit, in writing, data, information, or views on the issues pending before the National Advisory Board prior to or at the meeting. Seating for the open meeting is available on a first come first served basis.

Dated: May 26, 1992.

Jill Nevius,

Committee Management Officer.

[FR Doc. 92-12555 Filed 5-28-92; 8:45 am]

BILLING CODE 2222-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program and Supplement, Bloomington-Normal Airport, Bloomington, IL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the Bloomington-Normal Airport Authority under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96-52 (1980). On August 6, 1990, the FAA determined that the noise exposure maps submitted by the Bloomington-Normal Airport under Part 150 were in compliance with applicable requirements. On January 3, 1992, the Assistant Administrator for Airports approved the Bloomington-Normal Airport noise compatibility program, and on April 29, 1992, the Supplement for the noise compatibility program was approved, based on the airport operator's January 6, 1992, submittal.

A total of twelve (12) measures were originally included in the Bloomington-Normal Airport's recommended program. Of these measures three are listed as Aircraft Operations Measures, four are listed as Airport Facilities, two are listed as Land Use Management Measures and three are listed as Other Implementation Measures (Continuing Planning). The FAA has approved five (5), of the original measures in their entirety, and this included all of the Aircraft Operations Measures and two of the Other Implementation Measures, while one of the Other Implementation Measures was disapproved "for purposes of Part 150". In addition, one portion of an Airport Facilities Measure was approved, while the remainder of the Airport Facilities Measures were disapproved either "for purposes of Part 150" or "pending submittal of additional information". Also, one Land Use Measure was approved, while one Land Use Measure was also disapproved "pending submittal of additional information". On January 6, 1992, the airport operator submitted a Supplement in response to the FAA's disapproval of the above-mentioned Land Use Measure. This Supplement broke-down the Measure into three portions and

provided the additional information and documentation which the FAA had requested. FAA's revised Record of Approval approved two portions of this new Measure, while the remaining portion was "disapproved for purposes of Part 150".

EFFECTIVE DATE: The effective date of the FAA's approval of the Bloomington-Normal Airport noise compatibility program is January 3, 1992, while the supplement was approved on April 29, 1992.

FOR FURTHER INFORMATION CONTACT: Jerry R. Mork, Federal Aviation Administration, Great Lakes Region, Chicago Airports District Office, CHI-ADO-630.5, 2300 East Devon Avenue, Des Plaines, Illinois 60018, (312) 694-7522. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its approval to the noise compatibility program for Bloomington-Normal Airport, effective January 3, 1992, and to the Supplement on April 29, 1992.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act, and is limited to the following determinations:

- The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;
- Program measures are reasonably consistent with achieving the goals of

reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, section 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where federal funding is sought, requests for projects grants must be submitted to the FAA Chicago Airports District Office of Des Plaines, Illinois.

The Bloomington-Normal Airport submitted to the FAA on January 11, 1990, noise exposure maps, descriptions and other documentation. This documentation was produced during the Airport Noise Compatibility Planning (part 150) Study at Bloomington-Normal Airport from September 27, 1988, through April 6, 1992. The Bloomington-Normal Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on August 6, 1990. Notice of this determination was published in the *Federal Register* on August 28, 1990. On June 13, 1991, the Airport Operator requested that a revised five-year Noise Exposure Map included with the Noise Compatibility Program submittal be substituted for the five-year Map previously accepted. The revised Map is labeled 1995 Noise Exposure Map, while the previous accepted Map is labeled

1993 Noise Exposure Map and is found in the Noise Compatibility Program document.

The Bloomington-Normal Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 2002. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on November 4, 1991, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period would have deemed to be an approval of such program.

The submitted program was clarified by the airport operator's January 6, 1992, Supplement to the original program. The original program proposed by the airport sponsor contained twelve (12) measures for noise mitigation on and off the Bloomington-Normal Airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program, therefore, was approved by the Assistant Administrator for Airports effective January 3, 1992, while the Supplement was approved effective April 29, 1992.

Of the twelve original measures submitted, three were listed as Aircraft Operations Measures. All three of these Measures were approved outright, and they dealt with continuation and expansion of a preferential runway use program, use of preferential flight tracks over transportation corridors, and maintaining engine run-up procedures. Four Airport Facilities Measures were disapproved, which included the construction of a new crosswind runway for noise abatement purposes, "disapproved for purposes of Part 150", while the establishment of a noise barrier in the southwest area, the construction of a green-space buffer, and the construction of a hush house were all disapproved "pending submittal of additional information". Of the two land use measures, one was approved which required sound insulation for new construction between 60 DNL and 65 DNL, and one was disapproved regarding acquiring land within the 65 DNL Contour, pending submittal of additional information. The Airport Operator subsequently provided additional information and

documentation for this Land Use Measure which was disapproved, and this material was submitted as a Supplement to the Record of Approval. This Measure was divided into three portions, and two of these portions were approved, which included the purchase of parcel 1 and the purchase of parcel 2, while the purchase of parcel 3 was "disapproved for purposes of Part 150". Two of the three Other Implementation Measures were approved, including establishing an airport advisory committee for NCP evaluation and update, and undertaking of aircraft noise monitoring/noise contour update, while one Measure was "disapproved for purposes of Part 150", of procuring a "Bright Scope" for the Bloomington Tower. These determinations are set forth in detail in a Record of Approval endorsed by the Assistant Administrator for Airports on January 3, 1992, and in the Supplement on April 29, 1992. The Record of Approval and Supplement, as well as other evaluation materials and documents which comprised the submittal to FAA, are available for review at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., room 617, Washington, DC 20591.
Federal Aviation Administration, Great Lakes Region, 2300 East Devon Avenue, room 261, Des Plaines, Illinois 60018.
Federal Aviation Administration, Chicago Airports District Office, Great Lakes Region, 2300 East Devon Avenue, room 260, Des Plaines, Illinois 60018.
Office of Airport Manager, Bloomington-Normal Airport, Bloomington, Illinois 61704.
Division of Aeronautics, Illinois Department of Transportation, Capital Airport, Springfield, Illinois 62706.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Des Plaines, Illinois, May 7, 1992.
Louis H. Yates,
Manager, Chicago Airports District Office,
Great Lakes Region.
[FR Doc. 92-12612 Filed 5-28-92; 8:45 am]
BILLING CODE 4910-13-M

Receipt of Noise Compatibility Program and Request for Review; Space Center Executive Airport, Titusville, FL

AGENCY: Federal Aviation Administration, DOT.
ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that it

is reviewing a proposed noise compatibility program that was submitted for Space Center Executive Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) (hereinafter referred to as "the Act") and 14 CFR part 150 by the Titusville-Cocoa Airport Authority, Titusville, Florida. This program was submitted subsequent to a determination by FAA that the associated noise exposure maps submitted under 14 CFR part 150 for Space Center Executive Airport were in compliance with applicable requirements effective November 28, 1990. The proposed noise compatibility program includes a revised future noise exposure map. The proposed noise compatibility program will be approved or disapproved on or before November 10, 1992.

EFFECTIVE DATE: The effective date of the start of its review of the associated noise compatibility program is May 14, 1992. The public comment period ends July 13, 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Tommy J. Pickering, P.E., Federal Aviation Administration, Orlando Airports District Office, 9677 Tradeport Drive, suite 130, Orlando, Florida 32827-5397, (407) 648-6583. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed noise compatibility program for Space Center Executive Airport which will be approved or disapproved on or before November 10, 1992. This notice also announces the availability of this program for public review and comment.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has formally received the noise compatibility program for Space Center Executive Airport, also effective on May 14, 1992. It was requested that the FAA review this material and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act. Preliminary

review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before November 10, 1992.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration,
Orlando Airports District Office, 9677
Tradeport Drive, suite 130, Orlando,
Florida 32827-5397;

Mr. Mack R. LaZenby, P.E., A.A.E.,
Executive Director, Titusville-Cocoa
Airport Authority, 355 Golden Knights
Boulevard, Titusville, Florida 32780.

Questions may be directed to the individual named above under the heading "FOR FURTHER INFORMATION CONTACT".

Issued in Orlando, Florida May 14, 1992.

Charles E. Blair,
Manager, Orlando Airports District Office,
[FR Doc. 92-12615 Filed 5-28-92; 8:45 am]
BILLING CODE 4910-13-M

Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review, Allentown-Bethlehem-Easton International Airport, Allentown, PA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Lehigh-Northampton Airport Authority (LNAA) for the Allentown-

Bethlehem-Easton International Airport (ABE), Allentown, PA, under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for ABE under Federal Aviation Regulations (FAR) Part 150 in conjunction with the noise exposure maps, and that this program will be approved or disapproved on or before November 11, 1992.

DATES: The effective date of FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is May 15, 1992. The public comment period ends June 29, 1992.

FOR FURTHER INFORMATION CONTACT: Frank Squeglia, Environmental Specialist, FAA—Eastern Regional Office, Airports Division, AEA-610, Fitzgerald Federal Building, JFK International Airport, Jamaica, NY 11430, (718) 553-0902.

Comments on the proposed noise compatibility program should be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for the ABE Airport are in compliance with applicable requirements of Part 150, effective May 15, 1992. Further, the FAA is reviewing a proposed noise compatibility program for the airport which will be approved or disapproved on or before November 11, 1992. This notice also announces the availability of this program for public review and comment.

Under section 103 of title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict non-compatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the way in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of FAR part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets

forth the measures the operator has taken or proposes for the reduction of existing non-compatible uses and for the prevention of the introduction of additional non-compatible uses.

LNAA submitted to the FAA on April 14, 1992, noise exposure maps, descriptions and other documentation which were produced during an airport noise compatibility planning study from May 17, 1989 to March 8, 1992. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the LNAA. The specific maps under consideration are the "Existing (1989) Noise Exposure Area" (Figure 12-1) and the "Future (1995) Noise Exposure Area" (Figure 12-3). These exhibits are included in the FAR Part 150 Noise Compatibility Study Noise Exposure Map Documentation for ABE.

The FAA has determined that these maps for ABE are in compliance with applicable requirements. This determination is effective on May 15, 1992. FAA's determination on an airport operator's noise exposure maps is limited to finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on noise exposure maps submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land-use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the maps depicting properties on the surface

rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator under § 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

The FAA formally received the noise compatibility program for ABE on April 14, 1992. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before November 11, 1992.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing non-compatible land uses and preventing the introduction of additional non-compatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land-use authorities will be considered by the FAA to the extent practicable. The public comment period ends June 29, 1992. Copies of the noise exposure maps, the FAA's evaluation of the maps and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, Office of Airport Planning & Programming, Community & Environmental Needs Division, rm. 615B, 800 Independence Ave., SW., Washington, DC 20591

Eastern Regional Office, FAA—Fitzgerald Federal Building, Airports Division, rm 337, JFK International Airport, Jamaica, NY 11430

Harrisburg Airports District Office, FAA—3911 Hartzdale Drive, Suite 1, Camp Hill, PA 17011

Executive Director, Lehigh-Northampton Airport Authority, Allentown-Bethlehem-Easton Int'l Airport, PA

Questions and comments may be directed to the individual named above under the heading "FOR FURTHER INFORMATION CONTACT"

Issued in Jamaica, NY, on May 15, 1992.

Louis P. DeRose,

Manager, Airports Division Eastern Region.

[FR Doc. 92-12611 Filed 5-28-92; 8:45 am]

BILLING CODE 4910-13-M

Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review, Hayward Air Terminal (HWD) Hayward, CA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the Noise Compatibility Program submitted by City of Hayward under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96-52 (1980). On February 20, 1990 the FAA determined that the Noise Exposure Maps submitted by City of Hayward under part 150 were in compliance with applicable requirements. On January 28, 1992, the Administrator approved the Noise Compatibility Program. Most of the recommendations of the program were approved.

EFFECTIVE DATE: The effective date of the FAA's approval of the Noise Compatibility Program is January 28, 1992.

FOR FURTHER INFORMATION CONTACT: Joseph R. Rodriguez, Supervisor Planning and Programming Section SFO-610, San Francisco Airports District Office, Federal Aviation Administration, 831 Mitten Road, Burlingame, California 94010, Telephone: 415/876-2805. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the Noise Compatibility Program for Hayward Air Terminal, effective January 28, 1992.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a Noise Exposure Map may submit to the FAA a Noise Compatibility Program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the Noise Exposure Maps. The Act requires

such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport Noise Compatibility Program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act and is limited to the following determinations.

a. The Noise Compatibility Program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to the FAA's approval of an airport Noise Compatibility Program are delineated in FAR part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where federal funding is sought, requests for project grants must be

submitted to the FAA San Francisco Airports District Office in Burlingame, California.

The City of Hayward submitted to the FAA on July 11, 1989 the Noise Exposure Maps, descriptions, and other documentation produced during the Noise Compatibility Planning study conducted from January 1986 through June 1989. The Noise Exposure Maps were determined by the FAA to be in compliance with applicable requirements on February 20, 1990. Notice of this determination was published in the Federal Register on March 26, 1990.

The study contains a proposed Noise Compatibility Program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 1991. It was requested that the FAA evaluate and approve this material as a Noise Compatibility Program as described in section 104(b) of the Act. The FAA began its review of the program on August 2, 1991 and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained thirteen proposed actions for noise mitigation on and off the airport. The FAA has completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program, therefore, was approved by the Assistant Administrator for Airports effective January 28, 1992.

Although the Noise Compatibility Program study included the existing sound meter-based aircraft noise ordinance presently being enforced by the City of Hayward, this very significant noise control measure was excluded from the Noise Compatibility Program submitted for consideration.

Of those measures included in the submitted program, outright approval was granted for only three (3) of the specific program elements: Construction of a noise berm, Establishment of a communication program within the community, and a provision for the inclusion of noise abatement information in the airport automated terminal information system. Approval as a voluntary measure was granted for the very long term land use conversion.

Measures disapproved include: Acceleration of the FAR part 36

helicopter certification, Modification of part 36 Measuring Point, a requirement for large N-numbers on aircraft, and reduction of low overflights south of the airport.

Certain measures were disapproved pending submission of additional information, including the construction of a new helipad, Encouragement of discretionary actions by pilots; preferential runway system, and the prohibition of maintenance runups during night hours. No action was taken on the measure relating to flight procedures.

These determinations are set forth in detail in a Record of Approval endorsed by the Assistant Administrator for Airports on January 28, 1992. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the City of Hayward.

Issued in Hawthorne, California on May 12, 1992.

Ellsworth L. Chan,

Acting Manager, Airports Division, AWP-600
Western-Pacific Region.

[FR Doc. 92-12613 Filed 5-28-92; 8:45 am]

BILLING CODE 4910-13-M

Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review, Manchester Airport, Manchester, NH

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure map for Manchester Airport, as submitted by the Manchester (New Hampshire) Airport Authority under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150, is in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Manchester Airport under part 150 in conjunction with the noise exposure map, and that this program will be approved or disapproved on or before November 9, 1992.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure map and of the start of its review of the associated noise compatibility program is May 13, 1992. The public comment period ends on July 3, 1992.

FOR FURTHER INFORMATION CONTACT:

John C. Silva, Federal Aviation Administration, New England Region, Airports Division, ANE-602, 12 New England Executive Park, Burlington, Massachusetts 01803-5299.

Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure map submitted for Manchester Airport is in compliance with applicable requirements of part 150, effective May 13, 1992. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before November 9, 1992. This notice also announces the availability of this program for public review and comment.

Under section 103 of title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts noncompatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. The Act requires such map to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport. An airport operator who has submitted a noise exposure map that is found by FAA to be in compliance with the requirements of Federal Aviation Regulation (FAR) part 150, promulgated pursuant to title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken, or proposes, for the introduction of additional noncompatible uses.

The Manchester Airport Authority submitted to the FAA on March 23, 1992, a noise exposure map, descriptions, and other documentation which were produced during the Airport Noise Compatibility Planning (Part 150) study at Manchester Airport from August 1990 to March 1992. It was requested that the FAA review this material as the noise exposure map, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure map and related descriptions submitted by Manchester Airport. The specific maps under

consideration were Exhibits 1-M, "Current Noise Contours—1990", and 2-B, "1995 Noise Exposure (No Action)", along with the supporting documentation in "Part 150 Noise Compatibility Planning at Manchester Grenier Airport". The FAA has determined that the maps for Manchester Airport are in compliance with applicable requirements. This determination is effective on May 13, 1992. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program. If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure map to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of a noise exposure map. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted the map, or with those public agencies and planning agencies with which consultation is required under Section 103 of the Act. The FAA has relied on the certification by the airport operator, under Section 150.21 or FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Manchester Airport, also effective on May 13, 1992. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before November 9, 1992. The

FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure map, the FAA's evaluation of the map, and the proposed noise compatibility program are available for examination at the following locations:

Manchester Airport, Airport Manager's Office, Ammon Terminal, Manchester, New Hampshire 03103

Federal Aviation Administration, New England Region, Airports Division, ANE-602, 12 New England Executive Park, Burlington, Massachusetts 01803-5299

Questions may be directed to the individual named above under the heading: **FOR FURTHER INFORMATION CONTACT.**

Issued in Burlington, Massachusetts on May 13, 1992.

Vincent A. Scarano,

Manager, Airports Division, New England Region.

[FR Doc. 92-12614 Filed 5-28-92; 8:45 am]

BILLING CODE 4910-13-M

RTCA, Inc., RTCA Special Committee 167 and EUROCAE WG-12 Digital Avionics Software; Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix I), notice is hereby given for the sixth joint meeting of Special Committee 167 and EUROCAE WG-12 to be held June 15-17, 1992, in the Embassy Suites Hotel, Seattle, Washington, commencing at 8 a.m.

The agenda for this meeting is as follows: (1) Registration/sign-in; (2) Introductory remarks; (a) Joint chairs and secretaries; (b) EUROCAE and RTCA; (3) Approval of the previous meeting's minutes (joint 5); (4) Special reports; (a) SAE Systems Guidelines (SIRT); (b) Certification Authority Software Team (SWAT); (5) Report by the Editorial Group; (a) Production of

Draft 6; (b) Comments open at Draft 6 release (WG1-043.A); (c) Summary of comments closed via Editorial Group action (C1609-C1623); (d) Comments sent to SIRT (C1579, C1581, C1607, and C1608); (e) Comments received since Draft 6 release; (f) Summary of major open issues; (g) Plan for production of Draft 7; (h) Review of jointly-approved or minority position papers; (a) G4-045.8, "Verification of Multi-Version Software"; (b) G3-099.1, "Software Requirements Standards"; (c) 3/16/92, Minority Position "Software Development Plan"; (7) Formation of issue teams to analyze/resolve major issues; (8) Major issue team working sessions; (9) Major issue team reports; (10) Review of new issues or tasks; (11) Review of overall schedule; (12) Other business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833-9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on May 21, 1992.

Joyce J. Gillen,
Designated Officer.

[FR Doc. 92-12619 Filed 5-28-92; 8:45 am]
BILLING CODE 4910-13-M

**RTCA, Inc., Special Committee
164, Minimum Operational
Performance Standards for Aircraft
Audio Systems and Equipment;
Meeting**

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix I), notice is hereby given for the thirteenth meeting of Special Committee 164 to be held June 15-17, 1992, in the RTCA conference room 1140 Connecticut Avenue, NW., suite 1020, Washington, DC 20036, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's introductory remarks; (2) Approval of the summary of the twelfth meeting, RTCA paper no. 317-92/SC164-72; (3) Review of task assignments from last meeting; (4) Review of the seventh draft of the MOPS, RTCA paper no. 319-92/SC164-73; (5) Working group sessions; (6) Assignment of tasks; (7) Other business; (8) Date and place of next meeting.

Attendance is open to the interested public but limited to space available.

With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., suite 1020, Washington, DC 20036; (202) 833-9339. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on May 21, 1992.

Joyce J. Gillen,
Designated Officer.

[FR Doc. 92-12618 Filed 5-28-92; 8:45 am]
BILLING CODE 4910-13-M

**Notice of Intent To Rule on Application
To Impose a Passenger Facility
Charge (PFC) at Southwest Florida
Regional Airport, Fort Myers, Florida
and Use the Revenue From a
Passenger Facility Charge (PFC) at
Southwest Florida Regional and Page
Field Airports, Fort Myers, FL**

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Notice of intent to rule on
application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose a PFC at Southwest Florida Regional Airport and use the revenue from a PFC at Southwest Florida Regional and Page Field Airports under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before June 29, 1992.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 9677 Tradeport Drive, suite 130, Orlando, Florida 32827-5397.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Paul Doherty, Executive Director of the Lee County Port Authority at the following address: 16000 Chamberlin Parkway, suite 8671, Fort Myers, Florida 33913-8899.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Lee County Port Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT:
Mr. Bart Vernace, Airports Plans &

Programs Manager, FAA, Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827-5397, Phone (305) 420-6582. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose a PFC at Southwest Florida Regional Airport and use the revenue from a PFC at Southwest Florida Regional and Page Field Airports under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

On (insert date of regional letter of completeness), the FAA determined that the application to impose and use the revenue from a PFC submitted by the Lee County Port Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than August 22, 1992.

The following is a brief overview of the application.

Level of the proposed PFC: \$3.00

Proposed charge effective date:

September 1, 1992

Proposed charge expiration date:

October 1, 2022

Total estimated PFC revenue:

\$476,308,284

Brief description of proposed project(s):

**PROJECTS TO IMPOSE AND USE
PFC'S**

Southwest Florida Regional Airport

Landside Project Work Elements (PWE)

Gate and Related Terminal Facilities
Modify and Expand Terminal
Commuter Terminal Facilities
Midfield Terminal Planning
Professional Services
Project Work Under Contract

Airside Project Work Elements (PWE)

Terminal Ramp Expansion
Commuter Aircraft Ramp
Professional Services
Project Work Under Contract

*Land Acquisition Project Work
Elements (PWE)*

Professional Services

*Airport Support Project Work Element
(PWE)*

Wastewater Treatment and Reuse
Airport Support Equipment
Professional Services
Development Impact Fees

PFC General Formulation and Financing Costs

Master Plan Update
2010 DRI Application
Noise Study

PFC Debt Issuance Costs

Debt Financing Costs
Debt Service Payments

Page Field (FMY)

Airport Support Project Work Elements (PWE)

Professional Services

**PROJECTS ONLY TO IMPOSE PFC'S
Southwest Florida Regional Airport**

Airside Project Work Elements (PWE)

Runway 6/24 Extension

Land Acquisition Project Work Elements (PWE)

Airfield and Future Terminal

Airport Support Project Work Elements (PWE)

Maintenance Building Expansion

GA Airport (Proposed)

Airport Support Project Work Elements (PWE)

Professional Services

Master Planning/Site Selection

Class or classes of air carriers which the public agency has requested not be required to collect PFC's:

Air Taxi/Commercial Operators filing
FAA Form 1800-31

Any person may inspect the application in person at the FAA office listed above under **"FOR FURTHER INFORMATION CONTACT."**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Lee County Port Authority, 16000 Chamberlin Parkway, Suite 130, Fort Myers, Florida 33913-8899.

Issued in Atlanta, Georgia on May 20, 1992.
Stephen A. Brill,
Manager, Airports Division, Southern Region.
[FR Doc. 92-12617 Filed 5-28-92; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

[FHWA Docket No. 92-24]

Congestion Pricing Pilot Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice; request for comments.

SUMMARY: Section 1012(b) of the Intermodal Surface Transportation

Efficiency Act (ISTEA) of 1991 (Pub. L. No. 102-240, 105 Stat. 1914) directs the Secretary of Transportation (the Secretary) to solicit the participation of State and local governments and public authorities in congestion pricing pilot projects, some of which may be on the Interstate System, and requires the submittal of a congressional report every two years for a period of ten years. This notice describes the legislative mandate for the pilot program and procedures which will be used to implement the program, and establishes a docket for receipt of information and comments related to implementation of the pilot program.

DATES: Comments must be received on or before June 29, 1992.

ADDRESSES: Submit written, signed comments to FHWA Docket No. 92-24, Federal Highway Administration, Office of the Chief Counsel, room 4232, HCC-10, 400 Seventh St., SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except legal Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Link or Mr. John T. Berg, Highway Revenue Analysis Branch, HPP-13, 202-366-0570; or Mr. Wilbert Baccus, Office of the Chief Counsel, HCC-32, 202-366-0780; Federal Highway Administration, 400 Seventh St., SW., Washington DC 20590.

SUPPLEMENTARY INFORMATION: Section 1012(b) of the ISTEA of 1991 authorizes the Secretary to create a Congestion Pricing Pilot Program by entering into cooperative agreements with up to five State or local governments, or other public authorities, to establish, maintain, and monitor congestion pricing pilot projects. Three of these agreements may involve the use of tolls on the Interstate System notwithstanding 23 U.S.C. 129, as amended, and 301. The Secretary is to report to Congress every two years on the effects of pilot projects.

A maximum of \$25 million is authorized for each of the Fiscal Years 1992 through 1997 to be made available to carry out the requirements of the Congestion Pricing Pilot Program. Not more than \$15 million can be made available each fiscal year to fund any single cooperative agreement. The Federal share will be 80 percent for the program. Funds will be made available for establishing, maintaining, enforcing and monitoring a congestion pricing pilot project. Costs eligible for Federal-aid reimbursement include project

development, start-up and operating costs, including salaries and expenses. Such expenses will be eligible for Federal-aid reimbursement for a period of at least one year, or until such time that sufficient revenues are being generated by the congestion pricing pilot projects covered by a cooperative agreement to fund pilot project operating costs without Federal participation. No project may be funded for more than three years.

Purpose

The purpose of this notice is to provide general information about the FHWA's plans for implementing the Congestion Pricing Pilot Program and to solicit comments, suggestions, or information on issues related to implementation and operation of the program. Comments are sought on the program description contained in this notice and on guidelines that should be used in selecting program participants. Comments are particularly sought on the sections of this notice relating to items to be included as eligible for funding under this section, and on the description of eligible uses of revenues generated by pilot projects. Other questions include: What local conditions are necessary for a successful congestion pricing demonstration? What transportation alternatives should be in place prior to the implementation of pricing? Which types of pricing applications are likely to be most successful? What criteria should be used to evaluate congestion pricing demonstrations? What data are needed for successful monitoring and evaluation? Will pricing have disproportionate impacts on particular groups, such as the poor, commuters, commercial traffic, or business? What steps should be taken to ameliorate adverse impacts? Comments should be submitted to the docket by the deadline indicated above.

Definitions

"Congestion pricing," "peak-period pricing," or "road pricing" are terms generally used to refer to direct point/time-of-travel charges for roadway use varying by location, time, or vehicle occupancy. By shifting some trips to off-peak periods, to mass transit or other higher-occupancy vehicles, or to routes away from congested facilities, or by encouraging the consolidation of trips, congestion charges are intended to promote economic efficiency and to achieve congestion reduction, air quality, energy conservation, and transit productivity goals.

Congestion pricing pilot project, or pilot project, means any application of congestion pricing techniques included in a cooperative agreement under this section. Pricing may be applied to a specified highway facility or group of facilities, including corridor or area-wide pricing. A pilot project may also encompass pricing of parking and/or transit services in coordination with highway pricing.

Cooperative agreement means the agreement signed between the FHWA and a State or local government or other public authority to implement congestion pricing pilot projects under this section. A single cooperative agreement may encompass one or more congestion pricing pilot projects serving a specified metropolitan area.

Program Objective

The overall objective of this program is to monitor, evaluate, and report on the effects of congestion pricing on driver behavior, traffic volume, ridesharing, transit ridership, air quality, and availability of funds for transportation programs. In pursuit of this objective, the FHWA anticipates giving priority in selection of program participants to proposals which include projects which are likely to provide evaluation information during the life of the ISTEA of 1991. Program participants will have the flexibility to add to, or otherwise adjust, pricing projects once they are underway, but it is anticipated that priority in selection of program participants will be given to proposals which anticipate the application of pricing for an extended period of time and which provide an overall level of confidence that a test of congestion pricing will be successfully completed. It is anticipated that cooperative agreements will include provisions for monitoring and reporting on pilot projects.

Careful planning and development of local support are critical requirements for the successful application of congestion pricing. Potential participants in the Congestion Pricing Pilot Program should work closely with appropriate State and local transportation agencies and other concerned public and private organizations in developing proposals for program participation. Proposals should demonstrate that there is a local commitment to the test of congestion pricing, as well as legal authority for the application of pricing. The FHWA anticipates giving priority to proposals which indicate strong involvement and support by appropriate State and local transportation agencies and other public and private sector organizations.

States and localities are encouraged to consider the use of congestion pricing techniques as an element of a Congestion Management System (CMS) developed under section 1034 of the ISTEA of 1991. Information obtained from the Congestion Pricing Pilot Program may, in turn, provide valuable information about the effectiveness of congestion pricing in meeting CMS objectives.

Eligible Costs

Specific costs eligible for reimbursement under this section include the following:

(1) Capital costs for installing pricing instruments (e.g., toll booths, electronic monitoring and billing systems and equipment, transponders, etc.). Funds may not be used to construct new highway through lanes, bridges, etc., even if those facilities were to be priced, but toll ramps or added pavement to facilitate toll collection are eligible;

(2) Operating costs, including salaries and expenses, related to the operation of the pricing experiment (operation of monitoring equipment, enforcement costs, etc.);

(3) Costs related to the implementation of a parking pricing project (e.g., costs of setting up employer-based parking/demand management programs), so long as the project is a part of an overall congestion pricing plan; and

(4) Study costs for project planning, designing, monitoring and evaluating congestion pricing pilot projects. To be eligible for Federal-aid reimbursement under this section, project planning studies must be included as part of the congestion pricing pilot program under an approved cooperative agreement. Planning studies undertaken prior to the approval of a cooperative agreement, such as those undertaken to examine congestion pricing as an alternative solution to areawide transportation problems, are not eligible for funding under this section, and should be funded with normal Federal-aid highway planning funds, or with planning funds available through Federal Transit Administration programs.

Complementary actions, such as construction of HOV lanes, implementation of traffic control systems, or transit projects can be funded through other ISTEA of 1991 programs, including the National Highway System program, the Surface Transportation Program, the Congestion Mitigation and Air Quality Improvement Program, the Bridge Replacement and Rehabilitation Program and the Federal Transit Administration's Transit Formula Grant programs, Discretionary

and Formula Capital programs and Transit Planning and Research programs. The Intelligent Vehicle Highway Act of 1991, Title VI section 6051-6059 of the ISTEA of 1991, provides \$660 million over six years to support feasibility and operational testing of Intelligent Vehicle Highway System (IVHS) technologies and related activities. Those interested in participating in the Congestion Pricing Pilot Program are encouraged to explore opportunities for combining IVHS and Pilot Program funds.

Eligible Uses of Revenues

Revenues generated by a pilot project must be applied first to project expenses on the facility being priced until it is self-financing. Revenues above the amount required for pricing project expenses are available for any projects eligible under title 23, U.S.C. Uses of revenue which will support the goals of the congestion pricing project, such as projects eligible under section 149 of title 23, U.S.C., the Congestion Mitigation and Air Quality Improvement Program, are encouraged.

Background

As part of the DOT's continuing effort to examine issues related to congestion pricing, the Federal Highway Administration and the Federal Transit Administration sponsored a July 1991 seminar on the application of pricing principles to congestion management. An audience of transportation professionals from both the public and private sector participated in the seminar. Five leading experts on congestion pricing issues stimulated discussions by giving presentations based on their respective areas of experience. The FHWA and the FTA are also sponsoring a congestion pricing seminar scheduled for June 10-12 in Washington, DC. The results of the symposium will be given wide distribution. For further information, or to obtain a copy of the proceedings of these seminars, contact John T. Berg at the address provided under the heading

FOR FURTHER INFORMATION CONTACT above. In addition, the Transportation Research Board of the National Academy of Sciences (NAS) will be conducting an in-depth study of congestion pricing issues over the next two years. The results of this study will be published by the NAS.

Solicitation Process

The process to be followed in soliciting participation in this program involves two Federal Register notices: (1) This notice, which is intended to

provide information about section 1012(b) and the FHWA's interpretation of the legislative language, and to solicit public comment on issues to be considered in developing program guidelines and in ranking and selecting program participants; and (2) a second Federal Register notice to be issued later this year which will invite applications for program participation and present final selection criteria, program guidelines, and procedures for entering into cooperative agreements.

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Issued on: May 22, 1992.

T.D. Larson,
Administrator.

[FR Doc. 92-12636 Filed 5-28-92; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

Petition for Exemption or Waiver of Compliance

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received requests for exemptions from or waivers of compliance with a requirement of its safety standards. The individual petitions are described below, including the party seeking relief, the regulatory provisions involved, and the nature of the relief being requested.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number RSGM-92-8) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Communications received before June 29, 1992 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) in room 8201, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

The individual petitions seeking an exemption or waiver of compliance are as follows:

Southern Railroad Company of New Jersey (Waiver Petition Docket Number RSGM-92-8)

The Southern Railroad Company of New Jersey (SRNJ) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR part 223) for one caboose. The caboose will be used as a platform for a crewmember to ride in making back-up moves of up to 2.7 miles on the SRNJ. No one would ride inside the caboose. On the predecessor railroad, a crewmember was required to ride on the side of the lead car in back-up moves. The SRNJ stated that the use of the caboose will enhance safety since it will only be occupied on the platform, therefore, the type of glazing is immaterial.

Tacoma Municipal Belt Line Railroad (Waiver Petition Docket Number RSGM-92-31)

The Tacoma Municipal Belt Line Railroad (TMBL) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR part 223) for three locomotives. The TMBL operates 25 miles of track in the Tacoma, Washington area. There have been no accidents or injuries related to glazing in the past 12 years. Installing certified glazing would be a financial burden.

Issued in Washington, DC on May 20, 1992.

Phil Olekszyk,

Deputy Associate Administrator for Safety.

[FR Doc. 92-12530 Filed 5-28-92; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

[Docket No. 92-23-IP-No. 1]

General Motors Corporation; Receipt of Petition for Determination of Inconsequential Noncompliance

General Motors Corporation (GM) of Warren, MI has determined that some of its Front End Covers, purchased by owners of 1991 and 1992 Saturn SC models, may cause these vehicles to fail to comply with 49 CFR 571.108, "Lamps, Reflective Devices and Associated Equipment," and has filed an appropriate report pursuant to 49 CFR part 573. GM has also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) on the basis that the

noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under Section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Standard No. 108 requires that side reflex reflectors be designed to conform to Society of Automotive Engineers (SAE) Recommended Practice J594f, "Reflex Reflectors." The 1991 and 1992 SC models, as built, fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108. However, the Front End Covers, manufactured by GM sold through GM dealerships as a removable vehicle accessory, have a mesh material sewn into the opening for the combination wraparound sidemarker/side reflex device. This mesh may cause side reflex reflector performance to fall below SAE J594f levels. GM discovered the noncompliance as a result of a compliance verification test conducted in June 1991. At that time, it ceased shipment of the SC Front End Covers to Saturn retailers and initiated an investigation into the apparent noncompliance. Saturn subsequently notified dealers to discontinue all sales of the SC Front End Covers.

GM supports its petition for the following reasons: The difference between SAE J594f requirements and the average performance values of a side reflex reflector with a Front End Cover in place is imperceptible to the human eye. GM has analyzed both compliance verification data and process control data, as outlined in Attachment B. The average performance values exceed the minimum requirements specified in SAE J594f for all test points except for one. Only the .2-0 measurement point falls below the specified value (by 16.8 percent). As indicated in NHTSA's notices granting other similar Petitions for Determination of Inconsequential Noncompliance, a change in luminous intensity of less than 25 percent cannot be detected by the human eye. (See e.g., Notice granting Petition by Subaru of America (56 FR 59971); and Notice granting Petition by Hella, Inc. (55 FR 37601, at 37602).) Since the .2-0 measurement value is within this 25 percent of the required value and all other average test point values exceed the minimum specification, the noncompliance is inconsequential because the human eye cannot perceive the difference between the measured data and the minimum requirement.

Very few vehicles have the potential noncompliance condition. Sales of SC

Front End Covers have been very low; only 67 SC models were equipped with a Front End Cover which was installed by the dealer prior to sale or delivery of the vehicle to the first purchaser. Saturn dealers installed 122 more after initial sale or delivery of the vehicle, and 560 Front End Covers were purchased and installed by customers. More than 14,500 SC models have been sold to date.

Front End Covers are not intended to be installed and left on vehicles permanently. Owners who purchase Front End Covers typically use them to prevent specific conditions, such as insect accumulation, stone chips, etc., on the front of the vehicle. Further, the Front End Cover installation instructions advise owners that moisture under the cover may damage the vehicle's paint. Therefore, owners are likely to remove the cover from time to time. Such periodic use of the covers limits the exposure of others to any noncompliant system (i.e., side reflex reflector with a SC Front End Cover installed).

Neither the sidemarker lamp nor any other required lighting device falls below FMVSS 108 performance criteria with the Front End Cover in place.

GM is not aware of any accidents, injuries, owner complaints or field reports related to the reflectivity of the side reflex reflectors with the Front End Cover in place.

In addressing a similar petition filed by Chrysler involving noncompliant back-up lamps on 800 vehicles, the agency concluded that "A deficiency of 20% in this area, spread over a (small) population of * * * cars, is statistically unlikely to produce even one injury over the lifetime of all the cars." (52 Fed. Ref. [sic] 17499, at 17500). GM believes that the same analysis applies in this case, where there is also a small population of vehicles and a deficiency of only 16.8 percent.

Interested persons are invited to submit written data, views and arguments on the petition of GM described above. Comments should refer to the Docket Number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5109, 400 Seventh Street, SW., Washington, DC, 20590. It is requested but not required that six copies be submitted. All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the Notice will be published in the *Federal Register*

pursuant to the authority indicated below.

Comment closing date: June 29, 1992.

(15 U.S.C. 1417; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on May 22, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-12638 Filed 5-28-92; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 91-61; Notice 2]

Solar Electric Engineering; Grant of Petition for Temporary Exemption From Five Federal Motor Vehicle Safety Standards

This notice grants the petition by Solar Electric Engineering of Santa Rosa, California, to be exempted from five Federal motor vehicle safety standards for passenger cars and trucks that it converts to electric power. The basis of the grant is that an exemption will facilitate the development and field evaluation of low-emission motor vehicles.

Notice of receipt of the petition was published on January 6, 1992, and an opportunity afforded for comment (57 FR 427).

Petitioner intends to convert 1992 model Ford Escort passenger cars, and Chevrolet S10 pickup trucks to electric power, as well as certain other unspecified passenger cars certified as conforming to the Federal motor vehicle safety standards. The Fords will be marked under the name "Electron-One", and the Chevrolets under the name "Electron-Two." The basis of the petition was that a temporary exemption would facilitate the development and field evaluation of a low-emission motor vehicle, as provided by 49 CFR 555.6(c).

Although the vehicles to be converted are certified by their original manufacturers to conform to all applicable Federal motor vehicle safety standards, petitioner determined that the vehicles may not conform with all or part of five Federal motor vehicle safety standards after their modification. The standards and sections for which exemptions were requested are discussed more fully below.

1. Standard No. 103, *Windshield Defrosting and Defogging Systems*
2. Standard No. 105, *Hydraulic Brake Systems*

Petitioner stated that it is unsure whether performance requirements continue to be met after conversion.

3. Standard No. 201, *Occupant Protection in Interior Impact*
4. Standard No. 204, *Steering Control Rearward Displacement*

5. Standard No. 208, *Occupant Crash Protection*

None of the impact protection materials of vehicles certified to comply with Standard No. 201 are removed as part of the conversion, and the vehicles' original restraint systems conforming to Standard No. 208 remain in place. However, the petitioner was unsure whether performance differs "since the weight and mass has (sic) been altered."

According to the petitioner, an exemption would facilitate the development and field evaluation of a low-emission motor vehicle by enabling the petitioner to produce and market its vehicles. Such exemption would not unduly degrade the safety of the vehicle because of its intended use in low speed urban areas.

Further, the petitioner argues, granting the exemption would be in the public interest and consistent with the National Traffic and Motor Vehicle Safety Act because the vehicles would "reduce air pollution at street level and lessen the dependence of the United States on importation of petroleum."

One comment was received on the petition. Ford Motor Company asked the agency not to provide a "wholesale exemption from the substance of key safety standards such as FMVSS 105—Brakes (sic) and FMVSS 208—Occupant Protection (sic) * * * in the absence of clear evidence demonstrating that petitioner's vehicles conform as fully to the standards' safety objectives as is practicable for an electrically powered vehicle."

It is NHTSA's policy to provide as narrow an exemption as is practicable given the demands of safety and the fact situation applicable to the petitioner. The Administrator must find, in accordance with the statute, that an exemption would not unreasonably degrade the safety of the vehicle if it is granted. Balancing the public interest in low-emission vehicles and the public interest in safety, Congress has conceded that a measure of degradation may result from exemptions but it must not be an unreasonable degradation. However, as an assurance of a measure of protection to the public, Congress drew a limit as to the duration of such exemptions (a maximum of 2 years) and their extent (no more than 2,500 vehicles in any 12-month period that the exemption is in effect). When certified conventionally-powered vehicles are converted to electric power, NHTSA's experience has been that resultant questions of conformance appear to be more apparent than actual. Therefore, NHTSA has been able to find that temporary exemption of a converted

certified vehicle does not unreasonably degrade safety. The test posited by Ford, "clear evidence" of conformance "as fully * * * as is practicable for an electrically powered vehicle", would require NHTSA to gather data from all manufacturers of electrically powered vehicles to determine what level is "practicable" with respect to each standard. In instances in which the subject of a petition is a converted vehicle, NHTSA does not believe that safety demands such a rigorous test. Different considerations may obtain where the vehicle to be exempted is new from the ground up and is produced by an entity new to the vehicle manufacturing business, but that is not the fact situation before the agency in this case.

However, with Ford's comment in mind, NHTSA has reviewed each of the five standards from which exemption has been requested. With respect to Standard No. 103 *Defrosting and Defogging Systems*, the vehicles to be converted were originally equipped with defrosting and defogging systems. While the conversion to electric power may affect the performance of these systems, the systems will remain in place, and no exemption shall be given from S4.1, the requirement that vehicles be equipped with these systems. However, the test requirements of S4.2 and demonstration procedures of S4.3 were written for vehicles powered by internal combustion engines. Standard No. 103 incorporates by reference SAE Recommended Practices J902 and J902a, *Passenger Car Windshield Defrosting Systems*, which specify a tachometer as an item of test equipment, and a test condition for "engine speed;" of 1500 rpm. In a literal sense, it is impossible for the manufacturer of an electric vehicle to test according to S4.2 and S4.3, and an exemption is therefore required from these sections. In its ANPRM on electric vehicles [56 FR 67038], NHTSA has asked of comments on appropriate modifications to the test conditions and procedures of Standard No. 103 to allow the test requirements to be met.

Standard No. 105 *Hydraulic Brake Systems* consists primarily of service brake system performance requirements (S5.1) to be met through a series of stops and under a variety of conditions, and parking brake performance (S5.2) to be determined on a grade of 30 percent. The performance characteristics of vehicles that are converted will differ from the original vehicle because of the increased weight of the batteries. Service brake performance may also differ if the conversion adds a

regenerative braking feature. But the original service and parking brake systems of these vehicles remain in place. There would appear, therefore, to be no need for an exemption from S5.3 *Brake System Indicator Lamp*, and S5.4 *Reservoirs*.

Turning to Standard No. 201 *Occupant Protection in Interior Impact*, conformance with the interior compartment door requirements (S3.3) is demonstrated through a 30-mph frontal barrier impact, and compliance could be affected by the increased weight and mass of the vehicle. However, compliance with seat back requirements (S3.2) and interior compartment doors (S3.3) may be demonstrated through static tests, and conformance is not affected by conversion. Nor does conversion affect compliance by sun visors (S3.4) and armrests (S3.5). Therefore, NHTSA is granting an exemption only from S3.3 of standard No. 201.

As for Standard No. 204 *Steering Control Rearward Displacement*, compliance is wholly dependent upon the results of a barrier test, the results of which may be affected by the change of weight entailed by conversion, and, if a vehicle is to be exempted, the exemption must cover the entire standard.

The final standard for which exemption has been requested is Standard No. 208 *Occupant Crash Protection*. Much of the standard is full of requirements that do not apply to the petitioner. What petitioner seeks is an exemption from the requirements that are demonstrated through a barrier impact, specifically S4.1.4.1.

The vehicle is *per se* a low-emission motor vehicle, and an exemption would facilitate its field evaluation and further development by the petitioner. Given the continuing concern over the environment, an exemption of such a vehicle is in the public interest. Because the vehicle was originally manufactured to conform, and may remain in conformance, an exemption is consistent with the objectives of the National Traffic and Motor Vehicle Safety Act.

For the foregoing reasons it is hereby found that a temporary exemption would facilitate the development and field evaluation of a low emission motor vehicle and would not unreasonably degrade the safety of such vehicle, and it is further found that such exemption would be consistent with the public interest and the objectives of the Act. Accordingly, Solar Electric Engineering is hereby granted NHTSA Temporary Exemption 92-3, expiring April 1, 1994, from the following Federal motor vehicle safety standard or portions thereof:

Paragraphs S4.2 and S4.3 of 49 CFR 571.103 Motor Vehicle Safety Standard No. 103 *Windshield Defrosting and Defogging*, 49 CFR 571.105 Motor Vehicle Safety Standard No. 105 *Hydraulic Brake Systems*, except for S5.3 and S5.4; S3.3 of 49 CFR 571.201 Motor Vehicle Safety Standard No. 201 *Occupant Protection in Interior Impact*, 49 CFR 571.204 Motor Vehicle Safety Standard No. 204 *Steering Control Rearward Displacement*, and S4.1.4.1 of 49 CFR 571.208 Motor Vehicle Safety Standard No. 208 *Occupant Crash Protection*.

(15 U.S.C. 1410; delegation of authority at 49 CFR 1.50)

Issued on May 28, 1992.

Jerry Ralph Curry,
Administrator.

[FR Doc. 92-12639 Filed 5-28-92; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 92-22-IP-No. 1]

Uniroyal Goodrich Tire Company; Receipt of Petition for Determination of Inconsequential Noncompliance

Uniroyal Goodrich Tire Company (Uniroyal) of Greenville, SC has determined that some of its tires fail to comply with 49 CFR 571.119, "New Pneumatic Tires for Vehicles Other Than Passenger Cars," and has filed an appropriate report pursuant to 49 CFR part 573. Uniroyal has also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgement concerning the merits of the petition.

Federal Motor Vehicle Safety Standard (FMVSS) No. 119 requires that the maximum load rating and corresponding inflation pressure of the tire shall be molded into the sidewall of the tire. Uniroyal determined that during the period of the 9th week through the 15th week of 1992, the Uniroyal Goodrich plant in Opelika, Alabama produced approximately 2,000 LT245/75R16 load range C, Uniroyal Laredo tires with an incorrect load range marking in one location on one of the sidewalls. The tires were marked as load range E. The load range marking appears twice on each sidewall, and is correctly marked "Load Range C" in three of the four locations. Of the 2,000

tires, Uniroyal recovered 210 and will correct the error. Approximately 1,700 of the tires were sold as original equipment on General Motors light trucks. The remaining tires were sold in the replacement market.

The correct maximum load and inflation pressure are labelled on the tires. Uniroyal does not believe that the labelling of an incorrect letter for the load range designation on one sidewall of these tires will impact motor vehicle safety, since the tires are also marked with the correct load and inflation information. In addition, Uniroyal tested two of the noncompliant tires to the strength and endurance requirements of FMVSS No. 119 at the higher load range E load and inflation pressure. Both tires passed these requirements. Uniroyal feels the test results demonstrate that even in the unlikely event that the tires were run at load range E conditions instead of load range C conditions, they would not present a safety problem.

Interested persons are invited to submit written data, views and arguments on the petition of Uniroyal described above. Comments should refer to the Docket Number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW., Washington, DC, 20590. It is requested

but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the Notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: June 29, 1992.

(15 U.S.C. 1417; delegation of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on May 22, 1992.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 92-12637 Filed 5-28-92; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 92-50]

Revocation of James Woods & Co., Inc. To Gauge Imported Petroleum and Petroleum Products

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of Revocation of Approval of a Commercial Gauger.

SUMMARY: James Woods & Co., Inc., located at 116 John Street, suite 814, New York, New York 10038, has requested that the U.S. Customs Service revoke its commercial gauger approval. Accordingly, pursuant to § 151.13 (19 CFR 151.13) of the Customs Regulations, notice is hereby given that the Customs commercial gauger approval of James Woods & Co., Inc. has been revoked without prejudice.

EFFECTIVE DATE: May 15, 1992.

FOR FURTHER INFORMATION CONTACT:

Ira S. Reese, Office of Laboratories and Scientific Services, U.S. Customs Service, 1301 Constitution Ave. NW., Washington, DC 20229 (202) 566-2446.

Dated: May 28, 1992.

John B. O'Loughlin,

Director, Office of Laboratories and Scientific Services.

[FR Doc. 92-12548 Filed 5-28-92; 8:45 am]

BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register

Vol. 57, No. 104

Friday, May 29, 1992

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, June 3, 1992.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Publication for public comment of factors for evaluating proposals for Federal Reserve withdrawal from priced services.
2. Publication for public comment of proposal for the Federal Reserve to withdraw from priced definitive securities safekeeping services.
3. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for \$5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: May 27, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-12705 Filed 5-27-92; 10:56 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11:00 a.m., Wednesday, June 3, 1992, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: May 27, 1992.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 92-12706 Filed 5-27-92; 10:56 am]

BILLING CODE 6210-01-M

INTER-AMERICAN FOUNDATION BOARD MEETING

TIME AND DATE: June 9, 1992, 6:00-8:00 p.m.

PLACE: 901 N. Stuart Street, tenth floor, Arlington, Virginia 22203.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the Minutes of the October 28, 1991, Board Meeting
2. The Chairman's Report
3. The President's Report
4. Committee Reports
 - a. Audit Committee
 - b. Budget Committee
5. New Business
 - a. Revenue of Vision Statement
 - b. Discussion of Board Responsibilities Including Country Visits to Review Strategies and Grants
- c. Report by Norton Stevens on Trip to El Salvador

CONTACT PERSON FOR MORE

INFORMATION: Charles M. Berk, Secretary to the Board of Directors, (703) 841-3812.

Dated: May 27, 1992.

Adolfo A. Franco,

Acting Sunshine Act Officer.

[FR Doc. 92-12748 Filed 5-27-92; 8:45 am]

BILLING CODE 7025-01-M

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: [57 FR 22020, May 26, 1992].

STATUS: Open/Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Thursday, May 21, 1992.

CHANGE IN THE MEETINGS: Time changes and additional item.

A closed meeting scheduled for Tuesday, May 26, 1992, at 2:30 p.m. has

been changed to 3:30 p.m. An open meeting scheduled for Thursday, May 28, 1992, at 10:00 a.m. has been changed to 11:00 a.m. The following additional item was considered at the closed meeting scheduled for Tuesday, May 26, 1992, at 3:30 p.m.:

Consideration of *amici* participation.

Commissioner Schapiro, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Walter Stahr at (202) 272-2000.

Dated: May 27, 1992.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 92-12728 Filed 5-27-92; 12:15 pm]

BILLING CODE 8010-01-M

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of June 1, 1992.

A closed meeting will be held on Tuesday, June 2, 1992, at 10:00 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at closed meetings.

Commissioner Schapiro, as duty officer, voted to consider the items listed for the closed meetings in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, June 2, 1992, at 10:00 a.m., will be:

Institution of administrative proceedings of an enforcement nature.

Settlement of administrative proceedings of an enforcement nature.

Institution of injunctive actions.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Walter Stahr at (202) 272-2000.

Margaret H. McFarland,
Deputy Secretary.

BILLING CODE 8010-01-M

Registered Federal Letter

Friday
May 29, 1992

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for
Community Planning and Development

NOFA for a Technical Assistance
Communicator for State Administered
Community Development Block Grant
Programs; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-92-3434; FR-3203-N-01]

NOFA for a Technical Assistance Communicator for State Administered Community Development Block Grant (CDBG) Programs

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding availability (NOFA) for fiscal year 1992.

SUMMARY: This NOFA announces the availability of \$300,000 in Technical Assistance program funds to provide communications in the form of information referrals, exchanges and clearinghouse functions for states in administering CDBG Non-Entitlement Program funds.

Specifically, the Department of Housing and Urban Development is interested in funding the applicant that can best demonstrate the ability to operate as an effective communicator to states to improve the design, management and operation of state administered CDBG Non-Entitlement Programs. In the body of this NOFA is information concerning:

(a) The principal objective of this technical assistance competition, the funding available, eligible applicants and activities, and factors for award;

(b) The application process, including how to apply and how the selection will be made; and

(c) A checklist of application submission requirements.

DATES: The application deadline will be specified in the application kit, and will be firm as to date, hour and place. Applicants will have at least 45 days from the date application kits become available to prepare and submit their proposals. Application kits may be requested beginning May 29, 1992. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

APPLICATION KIT: To obtain a copy of the application kit, contact the Processing and Control Branch, Office of Community Planning and Development,

Department of Housing and Urban Development, 451 7th Street, SW., room 7253, Washington, DC 20410. Requests for application kits must be in writing, and may be faxed to (202) 708-3363. For general information telephone inquiries concerning the application kit, call (202) 708-1000, which is answered by an answering machine. Please leave your name, address, telephone number and specify that you are requesting the application kit for FR 3203. All questions should be directed to the person indicated as the contact for further information in this NOFA. The TTD number for the hearing impaired is (202) 708-2565. (These are not toll-free numbers.)

FOR FURTHER INFORMATION CONTACT:

Zita J. Blankenship, Office of Block Grant Assistance, States and Small Cities Division, 451 7th Street, SW., room 7184, Washington, DC 20410. Telephone Number: (202) 708-1322, or, for hearing impaired, TDD (202) 708-2565. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB), under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520), and assigned OMB control number 2535-0084.

I. Purpose and Substantive Description

A. Authority

This competition is authorized under section 107(b)(5) of the Housing and Community Development Act of 1974, as amended (the "Act"). Program requirements, including eligible activities applicable to awards made under this competition are contained in HUD regulations at 24 CFR 570.400 and 570.402, governing the Community Development Technical Assistance Program.

(Note: Section 570.402 of the regulation was revised as published in the Federal Register on August 26, 1991, 56 FR 41936-41940. All references in this NOFA to § 570.402 are to that section as so revised.)

B. Allocation and Form of Award

For this competition, HUD is making available \$300,000 in Community Development Block Grant Technical Assistance Program funds for a Cooperative Agreement with a successful applicant for the purpose of serving as a communicator to states administering CDBG Non-Entitlement Program funds, for a two year period, by performing clearinghouse functions such

as information referral, information collection and exchange, and information dissemination. Section 107(b)(5) of the Act authorizes HUD to award funds for the purpose of providing technical assistance in planning and carrying out CDBG programs under Title I of the Act.

Under this competition, HUD will fund the applicant that can best serve a communicator role to the states to increase the effectiveness of states to better implement and manage their state administered CDBG program.

C. Description of Technical Competition

1. Background and Purpose

The 1981 amendments to the Act gave each state the option of administering non-entitlement CDBG funds for smaller communities within its jurisdiction. Forty-eight states and the Commonwealth of Puerto Rico administer the state CDBG program. To date, Hawaii and New York are the only two States that have not accepted this option.

In the administration of the CDBG program, each state has flexibility in designing its own CDBG program, as long as all statutory and regulatory requirements are met. Most states currently distribute their funds on a competitive basis using a variety of set-asides that address the state's particular needs. Through this competition, HUD seeks to increase the effectiveness of state CDBG programs by:

- (a) Providing states with current information about the state CDBG program from the national perspective as well as from individual state perspectives;
- (b) Assisting program managers in solving problems encountered in administering the state CDBG program;
- (c) Transferring information among states about the latest innovations in state program development and management; and
- (d) Serving as a focus for a reference and referral clearinghouse and information service.

2. Eligible Activities and Tasks

Applicants requesting funds under this NOFA are expected to undertake tasks which meet the objectives described in section 1.C.1. above. Activities eligible for assistance under awards made through this competition are identified in 24 CFR 570.402(d). Technical assistance is not eligible for carrying out the administration of the State CDBG program or the other activities listed as ineligible in § 570.402(e).

In conducting work under this Cooperative Agreement, HUD is seeking

an applicant that can meet the performance requirements for serving in the capacity of the communicator to states to improve the administration and management of state administered CDBG programs. Communicator staff will be expected to establish and operate a clearinghouse for information collection, analysis, referral and dissemination focused on state CDBG administration issues. The design of the communicator function is to build the capacity of state CDBG program administrators to better manage and administer the state administered CDBG Non-Entitlement programs.

In conducting communicator activities, the staff will be expected to perform the following functions:

- * Compile, collect, analyze and disseminate information from state and local sources and from non-federal sources (such as public interest groups and other organizations representing the interests of state CDBG program administrators) on effective state CDBG programs, administrative techniques and tools that may be used by state CDBG program administrators to improve the effectiveness of their program operations.

Information resources to be compiled, collected, analyzed and disseminated may include, but are not limited to:

- State CDBG final statements
- Computer accessed information
- Bibliographies
- Case studies
- Training materials, handbooks or manuals
- Films/videos
- News articles/newsletters/publications
- Evaluation reports
- Forum and seminar summaries

- * Disseminate the material and information collected through a number of means, such as, but not limited to:

- Operation of call-in services to receive requests for information. Call-in services should honor all reasonable requests from public or private non-profit groups that are involved in the CDBG program, and should include TDD equipment.
- Publication of newsbriefs, supplying CDBG program administrators with concise accounts of state program activities, administrative issues, reforms, or changes or modifications in the statute, rules or regulations governing the state administered non-entitlement program. The publication should be published, at a minimum, on a bi-monthly basis to remain timely and up-to-date.
- Publication of a semi-annual bulletin which provides an in-depth discussion

of issues impacting on the state administered nonentitlement program. The discussion should include CDBG issues that are of interest to states such as, but not limited to: an examination of general administrative or program management issues, trends in the overall administration of state programs, innovative approaches being undertaken by states to improve program management and operations, and aspects of state program management or systems that might be transferable to other program administrators.

For the duration of the Cooperative Agreement, HUD requests that CDBG state program administrators be provided with the information services and publications at no charge provided that requestors certify either orally (if using telephone equipment to request information) or in writing that the information requested is for the purpose of enabling the requestor or the requestor's organization to more effectively plan, develop or administer a state administered CDBG program.

HUD also requests information services to be made available to public and private non-profit groups involved in the CDBG program at no charge provided the request is reasonable (involving documents no larger than 75 pages and no more than two hours staff time), the information is readily retrievable, and the costs are not prohibitive.

The communicator may provide information to others involved in the CDBG program who do not meet the above requirements, provided the communicator establishes a fee schedule to cover the costs of providing the service requested. The fee schedule should be limited to the hourly cost for all staff time assigned to responding to requests based upon the average hourly cost and adding the overhead and fringe rate to the base hourly rate to determine the hourly charge permissible.

3. Eligible Applicants

Eligible applicants are public and private non-profit groups, including educational institutions, that are qualified to provide technical assistance to assist states to carry out state CDBG programs. For-profit organizations are not permitted to receive a profit for conducting work under this award. However, sub-contractors may receive a profit.

4. Administrative Requirements

The applicant is required to adhere to four administrative requirements in performing the work under this award. These requirements are:

- Preparation of a budget by task and project management plan which will guide the operations of the CDBG communicator over the life of the award;

- Submission of quarterly progress reports detailing the work accomplished to date, progress made in fulfilling the tasks and sub-tasks contained in the approved project management plan and budget by task including a summary of the types of technical assistance services provided, recipients of technical assistance and projected demand for information and usage of center staff skills during the coming quarter;

- Distribution of technical assistance evaluation questionnaires provided by HUD to all entities and persons receiving assistance under this award; and

- Preparation of a final report on the accomplishments made, number of states or subsidiary state agencies responsible for administration of the state administered non-entitlement program or subrecipients or organizations assisted, the types of assistance provided, and recommendations for future actions by HUD to improve the capacity of states to administer the non-entitlement program.

Specific instructions regarding these requirements are contained in the application kit.

5. Factors For Award

HUD will use the following criteria to evaluate and score applications received in response to this NOFA. The program policy criteria in § 570.402(f)(1)(ii) will not be used for this competition. A Cooperative Agreement will be awarded to the applicant with the highest rating score. The points shown are the maximum that can be assigned for each category or subcategory. The maximum total number of points is 100.

(1) The probable effectiveness of the application in meeting the needs of localities and accomplishing program objectives (30 of the 100 points). In rating this factor, HUD will consider:

(a) (20 of the 30 points) The applicant's understanding of the problems faced by state officials in designing, administering and planning the state-administered CDBG non-entitlement program as evidenced by the applicant's recent experience (within the last three years), or that of its key officials, working directly with states on identification and/resolution of such community development problems.

(b) (10 of the 30 points) The applicant's ability to undertake the work as evidenced by:

(i) The background and experience of the project manager and other key staff which demonstrates recent (within the last 3 years) experience in clearinghouse operations; addressing state administered CDBG program management and administration issues; and writing, editing and publishing bulletins or periodicals regularly (5 points).

(ii) The applicant's plan for completing activities on time and within budget (3 points).

(iii) The soundness, completeness and attention to detail in the proposed work plan, including the schedule and phasing of the work elements (2 points).

(2) The soundness and cost effectiveness of the proposed approach (30 of the 100 points). In rating this factor HUD will consider:

(a) The extent to which the applicant's proposal is cost effective and sound as demonstrated by the quantity of information to be distributed and the distribution process; the size and format of proposed publications (provide two samples of previous publications similar to the ones proposed in your application), the number of times information will be made available, and the number of states and nonentitlement grantees expected to be served (25 of the 30 points).

(b) The extent to which the applicant will share in the cost of carrying out the tasks in the proposal as demonstrated by commitment to provide in-kind or cash contributions to the project (5 of the 30 points).

(3) The capacity of the applicant to carry out the proposed activities in a timely and effective fashion (25 of the 100 points). In rating this factor, HUD will consider:

(a) Recent experience (within the last three years) of the applicant's organization and key staff in networking with state agencies and officials responsible for the administration of the state administered nonentitlement program (10 of the 25 points).

(b) The extent to which the applicant's organization and key staff members have a working knowledge of the CDBG rules and regulations, particularly with regard to state administration issues and systems for allocating funds among potential non-entitlement grantees (8 of the 25 points).

(c) The applicant's experience in developing publications and articles on a regular timed basis which provide an in-depth discussion of specific administrative or programmatic issues relevant to CDBG program

administrators and generalized information which provides quick information and responses to issues of importance to CDBG program administrators (7 of the 25 points).

(4) The extent to which the results may be transferable or applicable to other CDBG program participants (15 of the 100 points). In rating this factor, HUD will consider:

(a) The extent to which the applicant demonstrates a sound, feasible plan/process for collecting, analyzing and periodically presenting the most important administrative and program issues to state CDBG administrators (8 of the 15 points).

(b) The applicant's plan/mechanism for transfer and dissemination of the papers, publications and other materials developed in response to specific assistance provided through the clearinghouse operation, to CDBG administrators and grantees (7 of the 15 points).

6. Selection Process

(a) Applications for funding under this NOFA will be evaluated competitively and awarded points by a headquarters evaluation panel, based upon the criteria contained in paragraph 5, Factors for Award. The applications with the most points will be selected.

(b) If two or more applications have the same number of points, the application with the most points for rating factor (1) shall be selected. If there is still a tie, the application with the most points for rating factor (3) will be selected.

(c) HUD reserves the right to fund less than all of the proposed activities identified in the application, provided the application receives the highest points on the basis of only the activities to be funded by HUD.

II. Application Submission Process

A. Obtaining Applications

For an application kit (Request for Cooperative Agreement Application, RFCAA), contact the Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street, SW., room 7255, Washington, DC 20410. Requests for application kits must be in writing, but may be faxed to (202) 708-3363.

B. Submitting Applications and Deadline Date

To be considered for funding, the application package must be received by the Processing and Control Branch, Office of Community Planning and Development, Department of Housing

and Urban Development, room 7255, 451 Seventh Street, SW., Washington, DC 20410 by the deadline date and time specified in the application kit. The application deadline is firm as to date, hour and place. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

III. Checklist of Application Submission Requirements

A. Application Content

Applicants must complete and submit an original and two (2) copies of their application in accordance with instructions contained in the application kit. The following is a checklist of the application contents that will be specified in the application kit:

1. Transmittal letter.
2. OMB Standard Form 424 (Request For Federal Assistance) and 424B (Non-Construction Assurances).
3. Narrative Statement addressing each of the Factors For Award. The application kit will contain specific instructions for how each factor for award should be addressed.
4. Project budget-by-task.
5. Letter(s) of commitment for cost share involving cash or in-kind services which support the Factors For Award Narrative statement.

B. Certifications and Exhibits

Applications must also include an original and two copies of the certifications listed below. Each certification must be signed by the Chief Executive Officer of the applicant organization unless otherwise noted.

1. Drug-Free Workplace Certification.
2. Certification regarding lobbying pursuant to section 319 of the Department of Interior Appropriations Act of 1989, generally prohibiting use of appropriated funds for lobbying.
3. Certification prohibiting excessive force against nonviolent civil rights demonstrators, pursuant to section 906 of the National Affordable Housing Act of 1990 (applies only to applicants that are units of general local government).
4. Certification that a Disclosure of Lobbying Activities, Standard Form LLL (SF-LLL) should be submitted if other than federally appropriated funds are used for lobbying activities.

5. HUD Form 2880 Applicant/Recipient Disclosure/Update Report.

IV. Corrections To Deficient Applications

After the submission deadline date, HUD will screen each application to determine whether it is complete. If an application lacks certain technical items or contains a technical error, such as an incorrect signatory, HUD will notify the applicant in writing that it has 14 calendar days from the date of HUD's written notification to cure the technical deficiency. If the applicant fails to submit the missing material within the 14-day cure period, HUD may disqualify the application.

This 14-day cure period applies only to non-substantive deficiencies or errors. Any deficiency capable of cure will involve only items not necessary for HUD to assess the merits of an application against the factors specified in the NOFA.

V. Other Matters

A. Environmental Review

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.20(b) of the HUD regulations, the policies and procedures in this document relate only to the provision of technical assistance services, and therefore, are categorically excluded from the requirements of the National Environmental Policy Act.

B. Documentation and Public Access Requirements; Applicant/Recipient Disclosures: HUD Reform Act

Documentation and public access Requirements.

In accordance with section 102 of the Department of Housing and Urban Reform Act of 1989 (Reform Act) and the HUD regulations implementing section 102 of the Reform Act at 24 CFR part 12, HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly Federal Register notice of all recipients of HUD

assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the Federal Register on January 16, 1992 (57 FR 1942), for further information on these documentation and public access requirements.)

Disclosures

HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period generally less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR subpart C, and the notice published in the Federal Register on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

C. Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of federal contracts, grants or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients and subrecipients of assistance exceeding \$100,000 must certify that no federal funds have been or will be spent on lobbying activities in connection with the assistance.

D. Prohibition Against Lobbying of HUD Personnel

Section 112 of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235, approved December 25, 1989, (Reform Act) added a new section 13 to the Department of Housing and Urban Development Act (42 U.S.C. 3531 *et seq.*). Section 13 contains two provisions concerning efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically

involved in those efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based upon the amount of assistance received, or if they are contingent upon the receipt of assistance. Section 13 was implemented by final rule published in the Federal Register on May 17, 1991 (56 FR 29912). If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in appendix A of the rule. Any questions concerning the rule should be directed to the Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone: (202) 708-3815 (TDD/Voice). These are not toll-free numbers. Forms necessary for compliance with the rule may be obtained from the local HUD office.

E. Prohibition Against Advance Information on Funding Decisions

Section 103 of the Reform Act proscribes the communication of certain information by HUD employees to persons not authorized to receive that information during the selection process for the award of assistance. HUD's regulation implementing Section 103 was codified at 24 CFR part 4 (see 56 FR 22088, May 13, 1991). In accordance with the requirements of section 103, HUD employees involved in the review of applications and in the making of funding decisions are restrained by 24 CFR part 4 by providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving an applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted by 24 CFR part 4. Applicants who have questions should contact the HUD Office of Ethics (202) 708-3815 (TDD/Voice). (This is not a toll-free number.)

F. Federalism Executive Order

The General Counsel, as the Designated Official under section 8(a) of Executive Order 12612, Federalism, has determined that the policies and procedures contained in this NOFA will not have substantial direct effects on states or their political subdivisions, or

the distribution of power and responsibilities among the various levels of government. Specifically, the NOFA solicits participation in an effort to provide technical assistance to improve the management and administration of state administered CDBG non-entitlement programs. The NOFA does not impinge upon the relationships between the Federal Government, and state and local governments.

G. Family Executive Order

The General Counsel, as the Designated Official under Executive

Order 12606, The Family, has determined that this document may have potential for significant beneficial impact on family formation, maintenance and general well-being. The technical assistance provided by the funding of a communicator to assist the states in improving their administration and management of state administered non-entitlement CDBG programs is expected to help low-moderate income families residing in assisted CDBG communities. Since the impact on the family is considered

beneficial, no further review under this order is necessary.

H. Catalog

The Catalog of Federal Domestic Assistance Program number is 14.227.

Authority: 42 U.S.C. 5301-5320; 42 U.S.C. 3535(d); 24 CFR 570.402.

Dated: April 27, 1992.

Anna Kondratas,

Assistant Secretary for Community Planning and Development.

[FR Doc. 92-12512 Filed 5-28-92; 8:45 am]

BILLING CODE 4210-29-M

Best Start Federal Project

Friday
May 29, 1992

Part III

Department of Housing and Urban Development

Office of the Assistant Secretary

Fair Housing Initiatives Program;
Competitive Solicitation; Notice of
Funding Availability

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Fair Housing and Equal Opportunity

[Docket No. N-92-3433; FR-3145-N-01]

NOFA for Fair Housing Initiatives Program; Competitive Solicitation

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Notice of Funding Availability (NOFA) for FY 1992.

SUMMARY: This NOFA announces HUD's funding of \$6.9 million for the Fair Housing Initiatives Program (FHIP). This program provides assistance to State and local agencies, public and private nonprofit organizations, and other public and private entities formulating or carrying out programs to prevent or eliminate discriminatory housing practices. In the body of this document is information concerning the purpose of the NOFA, eligibility, available amounts, selection criteria, how to apply for funding, and how selections will be made.

DATES: An application for funding under this Notice will be available following publication of the Notice. The actual application due date and time will be specified in the application kit. In no event, however, will the application be due before July 28, 1992.

ADDRESSES: To obtain a copy of the application, please write the Fair Housing Information Clearinghouse, Post Office Box 6091, Rockville, MD 20850 or call the toll free number 1-800-343-3442.

FOR FURTHER INFORMATION CONTACT: Marcella Brown, Director, Funded Programs Division, Office of the Assistant Secretary for Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-2000. Telephone number (202) 708-3214. (This is not a toll-free number.) Hearing or speech-impaired persons may use the Telecommunications Devices for the Deaf (TDD) on 202-708-1425 for information on the program.

SUPPLEMENTARY INFORMATION:

Key Features of This NOFA

(1) An application kit is required as the formal submission to apply for funding. The kit includes information on the preparation of a Statement of Work and Budget for activities proposed by the applicant. This process facilitates the expeditious execution of a

Cooperative Agreement/Grant for those applicants that are selected to receive funding.

(2) An applicant will have an opportunity to correct technical deficiencies in its application submission.

(3) Funds will not be available under this Notice for nontesting activities under the Private Enforcement Initiative.

(4) Funds will be available for the Administrative Enforcement Initiative.

Paperwork Reduction Act Statement

Application requirements associated with this program have been approved by the Office of Management and Budget, under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3054(h)), and assigned OMB control number 2529-0033.

I. Purpose and Substantive Description

(a) Authority

Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. 3601-19 (The Fair Housing Act), charges the Secretary of Housing and Urban Development with responsibility to accept and investigate complaints alleging discrimination based on race, color, religion, sex, handicap, familial status or national origin in the sale, rental, or financing of most housing. In addition, the Fair Housing Act directs the Secretary to coordinate with State and local agencies administering fair housing laws and to cooperate with and render technical assistance to public or private entities carrying out programs to prevent and eliminate discriminatory housing practices.

Section 561 of the Housing and Community Development Act of 1987, 42 U.S.C. 3616 note, established the Fair Housing Initiatives Program (FHIP) to strengthen the Department's enforcement of the Fair Housing Act and to further fair housing. This program assists projects and activities designed to enhance compliance with the Fair Housing Act and substantially equivalent State and local fair housing laws. Implementing regulations are found at 24 CFR part 125.

The FHIP has three funding categories: the Administrative Enforcement Initiative, the Education and Outreach Initiative, and the Private Enforcement Initiative. In FY 1989, approximately \$3.3 million was reserved for 40 organizations; in FY 1990, approximately \$7.5 million was reserved for 75 organizations; in FY 1991, approximately \$5.8 million was reserved for 74 organizations under both the Education and Outreach Initiative and the Private Enforcement Initiative. In FY

1992, \$8 million has been appropriated and made available for the three Initiatives.

The program components of the Fair Housing Initiatives Program are described in the Catalog of Federal Domestic Assistance at 14.408, Administrative Enforcement Initiative; 14.409, Education and Outreach Initiative; 14.410, Private Enforcement Initiative.

(b) Allocation Amounts

For FY 1992, the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act 1992 (approved October 28, 1991, Pub. L. 102-139), (92 App. Act) appropriated a total of \$8 million for the FHIP program. Of this amount, up to \$1 million from the Private Enforcement Initiative funding category is being reserved to conduct a testing project on mortgage lending practices, and \$100,000 from the Education and Outreach Initiative funding category is being reserved to fund activities related to the case of *Young v. Kemp* (Civil Action No. P-80-8-CA, U.S.D.C., E.D. Tex.) in the 36 East Texas counties involved in this class action suit. Separate NOFAs will announce the competitive funding of applications relating to *Young v. Kemp* and the testing project on mortgage lending practices. As noted, the remaining \$6.9 million is being made available in FY 1992 on a competitive basis to organizations that submit timely applications and are selected in response to this NOFA. Acceptability will be determined based upon criteria for eligibility, factors for award, and completeness of budget information. The Department retains the right to shift funds between FHIP Initiatives, listed below, within statutorily prescribed limitations. The total amount available under this NOFA (\$6.9 million) will be divided among the three FHIP Initiatives as follows:

(1) Administrative Enforcement Initiative

The amount of \$2.5 million is available under this NOFA for the Administrative Enforcement Initiative. HUD anticipates that approximately 20 to 30 projects will be funded.

(2) Education and Outreach Initiative

The amount of \$2.4 million is available under this NOFA for Education and Outreach funding. HUD estimates that it could fund up to \$500,000 for national education and outreach projects. HUD will use the remaining funds for regional, State, or

local projects. HUD anticipates that approximately 30 to 40 projects will be funded.

(3) Private Enforcement Initiative

For funding of testing activities under the Private Enforcement Initiative, \$2 million is available under this NOFA. Funds will not be available under this NOFA for non-testing activities. (HUD anticipates that approximately 25 to 30 projects will be funded.)

(c) Eligibility

(1) Administrative Enforcement Initiative

(i) The Administrative Enforcement Initiative provides funding to State and local fair housing agencies administering fair housing laws certified by the Secretary as providing rights and remedies that are substantially equivalent to those provided in The Fair Housing Act. A State or local fair housing agency, to be eligible to participate in the Administrative Enforcement Initiative, must be certified by the Assistant Secretary as substantially equivalent (or considered to be certified) under 24 CFR part 115, or have entered into an agreement with the Department for interim referrals, as provided in 24 CFR 115.11.

(ii) Funding will be available to support activities designed to strengthen and broaden the range of enforcement and compliance activities conducted by eligible State and local agencies. Such activities may include (but are not limited to) the following:

(A) Providing technical assistance to State and local government agencies administering housing and community development programs concerning applicable fair housing laws and regulations;

(B) Implementing fair housing testing programs;

(C) Conducting investigations of systemic discrimination for further enforcement processing by State or local agencies, or for referral to HUD and the Department of Justice;

(2) Education and Outreach Initiative

(i) The following types of organizations are eligible to receive funding under the Education and Outreach Initiative:

(A) State or local governments;

(B) Public or private non-profit organizations or institutions and other public or private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices.

(C) Fair Housing Assistance Program (FHAP) Agencies—State and local

agencies funded by the Fair Housing Assistance Program (FHAP).

(D) Community Housing Resource Boards (CHRBs).

(ii) Previous FHAP awardees are not invited to submit applications for education and outreach activities for which they were previously funded under FHAP.

(iii) Applications are solicited for specialized project proposals as described in 24 CFR 125.303 and in this Notice. Applications to develop new projects, or to continue projects not previously funded with FHAP funds, that are national, state, regional or local education or outreach projects or other special efforts, are eligible for funding under the Education and Outreach Initiative. These projects may include education of the general public and housing industry groups about fair housing rights and obligations and media campaigns concerning availability of housing opportunities.

(iv) All projects must address or have relevance to housing discrimination based on race, color, religion, sex, handicap, familial status or national origin.

(v) Projects should be no longer than 13 months in duration. Data gathering activities will require OMB approval under the Paper Work Reduction Act before commencement of the activity.

(vi) Educational projects that may be funded under the Education and Outreach Initiative may include (but are not limited to) the following:

(A) Developing informative material on fair housing rights and responsibilities;

(B) Developing educational material targeted at persons in need of specific or additional information on their fair housing rights;

(C) Developing fair housing and affirmative marketing instructional material for education programs for national, State, regional and local housing industry groups;

(D) Providing educational seminars and working sessions for civic associations, community-based organizations and other groups; and

(E) Developing and implementing school curriculums for fair housing courses.

(vii) Outreach projects that may be funded under the Education and Outreach Initiative may include (but are not limited to) the following:

(A) Developing national, State, regional or local media campaigns regarding fair housing;

(B) Bringing housing industry and civic or fair housing groups together to identify illegal real estate practices and to determine how to correct them, e.g.,

Voluntary Affirmative Marketing Agreements (VAMA);

(C) Designing targeted outreach projects to inform all persons of the availability of housing opportunities, e.g., handicapped, the non-English speaking public, and families with children under 18, including those in homeless shelters;

(D) Developing and implementing a response to new or more sophisticated practices that result in discriminatory housing practices;

(E) Developing and implementing a response to community opposition to the location of residential facilities for persons with disabilities, as defined under the Fair Housing Act, where supportive health or human services are provided in connection with the housing;

(F) Developing mechanism for the identification of and quick response to housing discrimination cases involving the threat of physical harm; and,

(G) Establishing private fair housing organizations in geographical areas where none exists.

(3) Private Enforcement Initiative

(i) The types of organizations eligible to receive assistance under the Private Enforcement Initiative are private non-profit organizations and other private entities that are formulating or carrying out programs to prevent or eliminate discriminatory housing practices. Organizations that can be eligible include, for example, private non-profit fair housing and civil rights groups.

(ii) To be eligible for funding of testing activities, organizations must have at least one year of experience in carrying out a program to prevent or eliminate housing discrimination practices and sufficient knowledge of fair housing testing to enable the applicant to implement a testing program successfully.

(iii) Applications are solicited for specialized project proposals as described in 24 CFR 125.403 and 125.404, and in this NOFA. Project applications may involve:

(A) Conducting investigations of systemic housing discrimination;

(B) Professionally conducting testing or other investigative support for administrative and judicial enforcement;

(C) Professionally conducting testing of bona fide allegations referred by FHAP agencies.

(iv) All applications for funding must have relevance to matters pertaining to housing discrimination based on race, color, religion, sex, handicap, familial status or national origin.

(v) Guidelines for Conduct of Funded Testing.

Testing activities funded under the Private Enforcement Initiative must conform to the guidelines in 24 CFR 125.405. These guidelines are not intended to restrict individuals or entities participating in the Fair Housing Initiatives Program from pursuing any right or remedy guaranteed by Federal law, or from the conduct of other testing or other investigative activities not funded under the Private Enforcement Initiative.

Eligible testing activities must be conducted in accordance with procedures contained in the application for assistance. These procedures shall include the following:

(A) A formal recruitment process designed to obtain a pool of credible and objective persons to serve as testers. Recruits must not have prior felony convictions of crimes involving fraud or perjury;

(B) A tester training program that will:

(1) Require the careful recordation of all relevant information on standardized forms, signed by the respective testers, following completion of the test;

(2) Prohibit any communication between pairs of testers relating to the conduct of the test, or to testing experiences or results, until all information has been recorded and the testers debriefed by the testing coordinator;

(3) Require that the same or substantially equivalent type of housing accommodations, financing, or service be requested; and

(4) Require that testers are prepared to identify themselves as having the same or substantially equivalent housing needs and demographic profile as the person who made the bona fide allegation, except for the race, color, religion, sex, handicap, familial status, national origin, or other attribute which is the basis of the alleged discrimination.

(C) In cases of testing for systemic discrimination (e.g., a pattern or practice of discriminatory housing practices by a housing provider or lender),

demographic profiles may vary from that of the person who made the bona fide allegation, so long as the test of each agent or owner is a "paired" test. For the purpose of these guidelines, a "paired test" means that the two testers who conduct the "paired test" shall:

(1) Have the same or substantially similar profiles, with regard to such factors as demographics, demeanor and dress, except for their race, color, religion, handicap, familial status, sex, nationality, or other attribute which is the basis of the alleged discrimination;

(2) Have the same or substantially similar housing requirements;

(3) Initiate the test at the same office or in the same or substantially similar transactional conditions and circumstances; and

(4) Conduct the test in a timely manner.

(5) Conduct the test in the same or similar manner.

(D) A tester selection, assignment and control system which will assure that neither the tester, nor the organization conducting the test, including its employees and agents:

(1) Has an economic interest in the outcome of the test, (without prejudice to the right of any person or entity to recover damages for any cognizable injury); or

(2) Has a specific bias toward either the person who made the bona fide allegation or the respondent; is a relative of one of the parties in the case; has had any employment or affiliation within one year with the person or organization to be tested; is a licensed competitor of such person or organization in the listing, rental, sale, or financing of real estate property; or has any other specific bias or conflict of interest which would prevent or limit his or her objectivity or fairness.

(vi) Projects should be no longer than 13 months in duration.

(vii) Projects that appear to be aimed solely or primarily at research or data-gathering unrelated to existing or planned fair housing enforcement programs will not be approved. Data-gathering activities will require OMB approval under the Paperwork Reduction Act before commencement of the activity.

(viii) In accordance with 24 CFR 125.404, no recipient of assistance under the Private Enforcement Initiative may use any funds provided by the Department for the payment of expenses in connection with litigation against the United States.

(ix) Recipients of funds under the Private Enforcement Initiative shall be required to record, in a case tracking log (or Fair Housing Act Enforcement Log) to be supplied by HUD, information appropriate to the funded project relating to the number of complaints of discrimination received; the basis of these complaints; the type and number of tests utilized in the investigation of each allegation; the time for case processing, including administrative or judicial case processing; the cost of testing activities and case processing; and case outcome or relief provided. The recipient must agree to notify HUD of all complaints and cases involving matters cognizable under the Federal Fair Housing Act. Notification

procedures will be provided in the Request for Applications (RFA).

(d) Selection Criteria/Ranking Factors

(1) General Selection Criteria for Ranking Applications For Assistance

All projects proposed in applications will be ranked on the basis of the following criteria for selection:

(i) The anticipated impact of the project proposed on the concerns identified in the application (25 points);

(ii) The extent to which the applicant's professional and organizational experience will further the achievement of project goals (25 points);

(iii) The extent to which the project will provide benefits in support of fair housing after funded activities have been completed (20 points);

(iv) The extent to which the project utilizes other public or private resources that may be available (20 points); and

(v) The extent to which the project will provide the maximum impact on the concerns identified in a cost-effective manner (15 points).

(2) Further Clarification of General Selection Criteria.

(i) In determining the anticipated impact of the proposed project, HUD will consider the degree to which a proposed project addresses problems and issues that are significant fair housing problems and issues, as explained in the application, or based upon other information available to HUD. (The clarity and thoroughness of the project description can be considered in this determination.)

(ii) In determining the extent to which the applicant's professional and organizational experience will further the achievement of the project's goals, HUD will consider the applicant's management of past and current FHIP or other grant programs, the experience and qualifications of existing personnel identified for key positions, or a description of the process and qualifications to be used for selection of key personnel, including subcontractors/consultants, as well as the organization's past and current experience. For organizations submitting an application under the Education and Outreach Initiative this experience should include both fair housing experience and experience in implementing education, outreach or public information programs.

(iii) In determining the extent to which the project will provide benefits after funded activities have been completed HUD will consider the degree to which the project will be of continuing use in

dealing with housing discrimination after funded activities have been completed.

(iv) In determining the extent to which other public or private resources are available, HUD will consider both monetary and in-kind resources identified in the application.

(v) In determining the extent to which the project will provide the maximum impact on the concerns identified in a cost effective manner, HUD will consider the reasonableness of the proposed timetable for implementation and completion of the project, as well as the adequacy and clarity of proposed procedures to be used by the agency for monitoring progress of the project and ensuring its timely completion. The applicant must have demonstrated administrative capability so as to assure consistency with HUD procurement requirements, and have an accounting component to assure the accurate reporting on the use of all funds. The applicant's capability in handling financial resources (e.g., adequate financial control procedures, accounting procedures) demonstrated through previous FHIP or other grant funding will be taken into account as part of the assessment. HUD will also consider the degree to which the applicant proposes to use funds for program costs, as opposed to administrative costs. (Applicants that have high administrative costs will receive a lower score on this factor.)

(3) Selection Process

Each application for funding will be evaluated competitively, and awarded points based on the General Selection Criteria identified in section I(d)(1) of this NOFA. The final decision rests with the Assistant Secretary or designee. After eligible applications are evaluated against the factors for award and assigned a score, HUD will fund in rank order until all available funds have been obligated, or until there are no acceptable applications. In making awards, the Assistant Secretary may exercise discretion to make awards out of rank order for the purpose of ensuring equitable geographical distribution. The rank ordering will be done separately for each component, that is, the Administrative Enforcement Initiative will be ranked separately; all national project applications under the Education and Outreach Initiative will be ranked as a separate group, as will applications for regional, State and local projects; and testing activities under the Private Enforcement Initiative will be ranked separately.

(4) Cost Factors

The Department expects to fund multiple applications as a result of this NOFA. At some point, however, two or more complete and eligible applications, after evaluation against the Selection Criteria, may be considered equal in technical merit. At that point, the project's relative evaluated cost will become the deciding factor. Furthermore, an applicant's proposal will not be funded when costs are determined to be unrealistically low or unreasonably high.

(5) Reduction of Requested Grant Amounts and Special Conditions

HUD may approve an application for an amount lower than the amount requested, withhold funds after approval, and/or the grantee will be required to comply with special conditions added to the grant agreement, in accordance with 24 CFR 85.12, the requirements of this NOFA, or where:

- (i) HUD determines the amount requested for one or more eligible activities is unreasonable or unnecessary;
- (ii) The application does not otherwise meet applicable cost limitations established for the program;
- (iii) The applicant has requested an ineligible activity;
- (iv) Insufficient amounts remain in that funding round to fund the full amount requested in the application and HUD determines that partial funding is a viable option;
- (v) The applicant has demonstrated an inability to manage HUD grants, particularly Fair Housing Initiatives Program grants; or
- (vi) For any other reason where good cause exists.

(e) Applicant Notification and Award Procedures

(1) Notification

No information will be available to applicants during the period of HUD evaluation, except for notification in writing to those applicants that are determined to be ineligible or that have technical deficiencies in their applications that may be corrected. Selectees will be announced by HUD upon completion of the evaluation process, subject to final negotiations and award.

(2) Negotiations

After HUD has ranked the applications and made an initial determination of applicants whose scores are within the funding range (but before the actual award), HUD may

require that applicants in this group participate in negotiations, and submit application revisions resulting from those negotiations. In cases where it is not possible to conclude the necessary negotiations successfully, awards will not be made.

If an award is not made to an applicant whose application is above the initial funding threshold because of an inability to complete successful negotiations, and if funds are available to fund any applications that may have fallen below the initial threshold, HUD will establish a new funding threshold and proceed as described in the preceding paragraph.

(3) Funding Instrument

HUD expects to award a cost reimbursable or fixed-price cooperative agreement to each successful applicant. HUD reserves the right, however, to use the form of assistance agreement determined to be most appropriate after negotiation with the applicant.

(4) Performance Sanctions

(i) A recipient failing to comply with the procedures set forth in its Administrative Enforcement Initiative application for funding will be liable for such sanctions as may be authorized by law, including repayment of improperly used funds, termination of further participation in the Initiative, reduction or limitation of further funding for administrative enforcement activities, and denial of further participation in programs of the Department or of any Federal agency.

(ii) A recipient failing to comply with the requirements or the procedures set forth in its Education and Outreach Initiative application for funding will be liable for such sanctions as may be authorized by law, including repayment of improperly used funds, termination of further participation in the Initiative, reduction or limitation of further funding for education and outreach activities, and denial of further participation in programs of the Department or of any Federal agency.

(iii) A recipient failing to comply with the testing requirements or the procedures set forth in its Private Enforcement Initiative application for funding will be liable for such sanctions as may be authorized by law, including repayment of improperly used funds, termination of further participation in the Initiative, reduction or limitation of further funding for investigatory activities, and denial of further participation in programs of the Department or of any Federal agency.

II. Application Process

An application kit is required as the formal submission to apply for funding. The kit includes information on the Statement of Work (SOW) and Budget for activities proposed by the applicant. An application may be obtained by writing the Fair Housing Information Clearinghouse, Post Office Box 6091, Rockville, MD 20850, or by calling the toll free number 1-800-343-3442. To ensure a prompt response, it is suggested that requests for application kits be made by telephone.

Completed applications are to be submitted to Aztec Jacobs, Funded Programs Division, Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

The application due date and time will be specified in the application kit. If no event, however, will the application be due before July 28, 1992. The application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems. A "FAX" will not constitute delivery.

An applicant may submit only one application for each Initiative, but may propose more than one type of activity in the application. Applicants must submit all information required in the application kit and must include sufficient information to establish that the application meets the criteria set forth in section I.(d), above, of this NOFA.

III. Checklist of Application Submission Requirements

(a) General Requirements.

The application kit will contain a checklist of application submission requirements to complete the application process. A separate application kit is available for the Administrative Enforcement Initiative, Education and Outreach Initiative and the Private Enforcement Initiative. Only one application may be submitted for each Initiative, but an application may propose more than one type of project or activity. Each application for funding under the Fair Housing Initiatives Program must identify the component(s) being applied for (i.e., national projects, regional, State or local projects under the Education and Outreach Initiative,

testing projects under the Private Enforcement Initiative) and must contain the items set forth below:

(1) A description of the practice or practices at the community, regional or national level which have affected adversely the achievement of the goal of fair housing. This description must include a discussion and analysis of the housing practices identified, including available information and studies relating to discriminatory housing practices and their historical background, and relevant demographic data indicating the nature and extent of the impact of the described practices on persons seeking dwellings or services related to the sale, rental or financing of dwellings, in the general location where the applicant proposes to undertake activities;

(2) A description of the specific activities to be conducted with FHIP funds, including the final products and any reports to be produced, the cost of each activity proposed and a schedule for completion of the activities;

(3) A description of the applicant's experience in formulating or carrying out programs to prevent or eliminate discriminatory housing practices;

(4) A statement indicating the need for Federal funding in support of the proposed project and an estimate of other public or private resources that may be available to assist the proposed activities;

(5) A description of the procedures to be used by the applicant for monitoring the progress and for assessing the result of the proposed activities;

(6) A description of the benefits that successful completion of the project will produce to enhance fair housing and the concerns identified, and the indicators by which these benefits are to be measured, and;

(7) A description of the long-term usefulness of project results.

(8) HUD form 2880, Applicant Disclosures.

(9) The applicant must submit a certification and disclosure in accordance with the requirements of section 319 of the Department of the Interior Appropriations Act (Pub. L. 101-121, approved October 23, 1989), as implemented in HUD's interim final rule at 24 CFR part 87, published in the *Federal Register* on February 26, 1990 (55 FR 6736). This statute generally prohibits recipients and subrecipients of Federal contracts, grants, cooperative agreements and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. If warranted, the applicant should include

the Disclosure of Lobbying Activities form (SF-LLL).

(b) Additional Education and Outreach Initiative Requirements

(1) In addition to meeting the application requirements contained in section III.(a) of this NOFA, all applications for Education and Outreach Initiative funding must describe how the activities or the final products of the projects can be used by other agencies and organizations and what modifications, if any, would be necessary for that purpose.

(2) Coordination of activities. Each non-governmental applicant for funding under the Education and Outreach Initiative that is located within the jurisdiction of a State or local enforcement agency or agencies administering a fair housing law that has been certified by the Department under 24 CFR part 115 as being a substantially equivalent fair housing law must provide, with its application, evidence that it has consulted with the agency or agencies to coordinate activities to be funded under the Education and Outreach Initiative. This coordination will ensure that the activities of one group will minimize duplication and fragmentation of activities of the other.

(c) In addition to meeting the application requirements contained in section III.(a), above, all proposals for testing under the Private Enforcement Initiative must include:

(1) Documentation that the applicant has at least one year of experience in carrying out a program to prevent or eliminate discriminatory housing practices, and has sufficient knowledge of fair housing testing to enable the applicant to implement a testing program successfully;

(2) Documentation supporting the requirement that FHIP funded tests may be undertaken only if there has been a "bona fide allegation" of a discriminatory housing practice;

(3) A certification providing that the applicant will not solicit funds from or seek to provide fair housing educational or other services or products for compensation, directly or indirectly, to any person or organization which has been the subject of testing by the applicant during a 12 month period following the test;

(4) A description of the process to be used to recruit testers;

(5) A description of the tester training program; and

(6) Copies of forms used to document allegations and to record the experience of testers.

IV. Corrections to Deficient Applications

Applicants will be disqualified from being considered for funding because of technical deficiencies in their application submission, e.g., an omission of information such as regulatory/program certifications, inadequate budget data, or incomplete signatory requirements for application submission.

HUD will notify an applicant in writing of any technical deficiencies in the application. The applicant must submit corrections within 14 calendar days from the date of HUD's letter notifying the applicant of any technical deficiency.

Applicants will not have an opportunity to submit information omitted from the Application Kit that directly relates to the evaluation factors contained in the "Factors for Award" of this NOFA so as to enhance the merits of the application.

V. Other Matters

Section 504 Requirements

Recipients will be expected to comply with the requirements of section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, and 24 CFR part 8. Section 504 prohibits discrimination based on handicap in federally assisted programs.

Prohibition Against Lobbying

On February 26, 1990, at 55 FR 6736, the Department joined in the issuance of a government-wide interim rule advising recipients and subrecipients of Federal contracts, grants, cooperative agreements and loans exceeding \$100,000 of a new prohibition against use of appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. In general, this rule prohibits the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. In addition, the recipient must file a disclosure if it has made or has agreed to make any payment with nonappropriated funds that would be prohibited if paid with appropriated funds. The law provides substantial monetary penalties for failure to file the required certification or disclosure.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public

inspection and copying from 7:30 to 5:30 weekdays in the Office of the Rules Docket Clerk, room 10276, 451 Seventh Street, SW., Washington, DC 20401.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that the policies announced in this Notice would not have a significant impact on the formation, maintenance, and general well-being of families except indirectly to the extent of the social and other benefits expected from this program of assistance.

Executive Order 12612, Federalism

The General Counsel has determined, as the Designated Official for HUD under section 6(a) of Executive Order 12612, Federalism, that the policies contained in this Notice will not have federalism implications and, thus, are not subject to review under the Order. The promotion of fair housing policies is a recognized goal of general benefit without direct implications on the relationship between the national government and the states or on the distribution of power and responsibilities among various levels of government.

Drug-Free Workplace Certification

The Drug-Free Workplace Act of 1988 requires grantees of Federal agencies to certify that they will provide drug-free workplaces. Thus, each applicant must certify that it will comply with drug-free workplace requirements in accordance with 24 CFR part 24, subpart F.

Section 102 HUD Reform Act Documentation and Public Access Requirements; Applicant/Recipient Disclosures

Documentation and Public Access Requirements

HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly Federal Register notice of all recipients of HUD

assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the Federal Register on January 16, 1992 (57 FR 1942), for further information on these documentation and public access requirements.)

Disclosures

HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period generally less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR subpart C, and the notice published in the Federal Register on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

Section 103 HUD Reform Act

HUD's regulation implementing section 103 of the Department of Housing and Urban Development Reform Act of 1989 was published May 13, 1991 (56 FR 22088) and became effective on June 12, 1991. That regulation, codified as 24 CFR part 4, applies to the funding competition announced today. The requirements of the rule continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by Part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under 24 CFR part 4.

Applicants who have questions should contact the HUD Office of Ethics (202) 708-3815 (TDD/Voice). (This is not a toll-free number.) The Office of Ethics can provide information of a general nature to HUD employees, as well. However, a HUD employee who has specific program questions, such as whether particular subject matter can be discussed with persons outside the Department, should contact his or her Regional or Field Office Counsel, or Headquarters counsel for the program to which the question pertains.

Section 112 HUD Reform Act

Section 13 of the Department of Housing and Urban Development Act contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second

restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance.

Section 13 was implemented by final rule published in the **Federal Register** on May 17, 1991 (56 FR 22912). If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly

the example contained in Appendix A of the rule.

Authority: Section 561 of the Housing and Community Development Act of 1987 (42 U.S.C. 3616 note); Title VIII, Civil Rights Act of 1968, as amended (42 U.S.C. 3601-3619); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: May 21, 1992.

Gordon H. Mansfield,
Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 92-12513 Filed 5-28-92; 8:45 am]

BILLING CODE 4210-28-M

Federal Register

Friday
May 29, 1992

Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary

Section 107 Technical Assistance Awards Program for State Community Development Block Grant (CDBG) Grantees; Notice of Funding Availability

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-92-3437; FR 3202-N-01]

Notice of Funding Availability (NOFA) for the Section 107 Technical Assistance Awards Program for State Community Development Block Grant (CDBG) Grantees

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of fund availability for fiscal year 1992.

SUMMARY: This NOFA announces the availability of maximum of \$3 million in grants to states to provide, directly or through contract, technical assistance for units of general local government participating in the State Community Development Block Grant (CDBG) program. Up to an additional \$1 million in Technical Assistance program funds may be awarded should funds from other technical assistance competitions become available for further award prior to the end of Fiscal Year 1992. In the body of this document is information concerning:

- (a) The purpose of the NOFA and information regarding eligibility, available amount, and selection criteria;
- (b) The application processing, including how to apply and how selections will be made; and
- (c) A checklist of submission requirements.

DATES: The application deadline will be specified in the application kit, and will be firm as to date, hour and place. Applicants will have at least 60 days from the date application kits become available to prepare and submit their proposals. Application kits may be requested beginning May 29, 1992. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

ADDRESSES: To obtain a copy of the application kit, contact the Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., room 7253, Washington, DC 20410. Requests

for application kits may be made by calling (202) 708-1000 or may be faxed to (202) 708-3363. When requesting an application kit, please leave your name, address, telephone number and specify that you are requesting the application kit for FR 3202. All procedural and substantive questions should be directed to the person indicated as the contact for further information in this NOFA. The TDD number for the hearing impaired is (202) 708-2565. (These are not toll-free numbers.)

FOR FURTHER INFORMATION CONTACT: Zita J. Blankenship, Office of Block Grant Assistance, State and Small Cities Division, CGBS, Department of Housing and Urban Development, room 7184, 451 Seventh Street SW., Washington, DC 20410; telephone number (202) 708-1322. The TDD number is (202) 708-2565. (These are not toll free numbers.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB), under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520), and assigned OMB control number 2535-0084.

I. Purpose and Substantive Description

A. Authority

The Technical Assistance Awards Program is authorized by section 107(b)(5) of the Housing and Community Development Act of 1974, as amended, (42 U.S.C. 5307), as implemented by HUD regulations at 24 CFR 570.400 and 570.402.

B. Allocation and Form of Award

For this competition, HUD will make available a total of up to \$3 million in funds. Up to an additional \$1 million in Technical Assistance program funds may be awarded should funds from other technical assistance competitions become available for further award prior to the end of Fiscal Year 1992, after selections from those competitions have been made. The maximum amount for which a state may apply is .5% of its Fiscal Year 1992 CDBG allocation up to \$250,000, but each state may apply for at least \$125,000.

C. Description of Technical Competition

1. Background and Purpose

The 1981 amendments to the Housing and Community Development Act of 1974, gave each State the option of administering non-entitlement CDBG funds for smaller localities within their jurisdiction. Forty-eight states and the

Commonwealth of Puerto Rico administer the State CDBG program.

In administering the CDBG program, each state has flexibility in designing the program's method of distributing funds and funding priorities. States provide funds to nonentitlement localities to carry out eligible community development activities. In administering the CDBG program, states are responsible for ensuring that recipient communities comply with applicable state and Federal laws and requirements. The provision of timely and effective technical assistance to nonentitlement localities can often avoid serious compliance problems and enhance the effective and efficient delivery of activities.

Under the State CDBG program states are required to certify that they provide, or will provide, technical assistance to the localities. While compliance with the certification is a state responsibility eligible for funding from the state's CDBG grant set aside authorized for administration expenses, the Department seeks to expand the level of technical assistance for localities in relation to the program objectives addressed in this NOFA. Grants awarded under this NOFA can therefore only be used to supplement the technical assistance States are providing in compliance with their certification. Applicants must include a brief description of how they are in compliance and how the technical assistance proposed in their application compliments or supplements the assistance already being provided.

This Section 107 State Technical Assistance Program has the following objectives:

- (a) Assist those states whose nonentitlement localities face the most serious technical assistance needs related to the state CDBG program;
- (b) Build the capacity of states' recipients to more effectively meet the needs of low and moderate income persons under the state CDBG program;
- (c) Assist nonentitlement localities to strengthen the implementation and management of troubled economic development projects funded under the state CDBG program;
- (d) Develop local capacity to clear audit and monitoring findings; and
- (e) Develop local capacity in financial management.

2. Eligible Applicants

Eligible applicants are the 48 states and the Commonwealth of Puerto Rico that administer the CDBG Program for nonentitlement areas.

3. Eligible Activities

Eligible activities are:

- (a) The provision of technical or advisory services;
- (b) The design and operation of training projects, such as workshops, seminars, or conferences;
- (c) The development and distribution of technical materials and information; and
- (d) Other methods of demonstrating and making available skills and knowledge through which the state can provide an expanded level of technical assistance to units of general local government in the effective implementation and administration of the State CDBG programs.

4. Ineligible Activities

Ineligible activities are:

- (a) Administrative expenses incurred by a state in administering its state CDBG program for non-entitlement communities;
- (b) Any type of development or rehabilitation costs commonly referred to as "hard" costs;
- (c) The cost of acquiring or developing the specialized skills or knowledge to be provided by the group funded under the project;
- (d) Research activities; or
- (e) Activities designed primarily to benefit HUD, or to assist HUD in carrying out the Department's responsibilities other than the provision of technical assistance, such as research, policy analysis of proposed legislation, training or travel of HUD staff, or development and review of reports to the Congress.

5. Administrative Requirements

The applicant is required to adhere to four administrative requirements in performing the work under this award. These requirements are: (1) Preparation of a budget by task and project management plan which will guide the operations of successful applicants over the life of the award; (2) submission of quarterly progress reports detailing the work accomplished to date, progress made in fulfilling the tasks and sub-tasks contained in the approved project management plan and budget by task including a summary of the types of technical assistance services provided, recipients of technical assistance, and projected assistance activities scheduled during the coming quarter; (3) distribution of Technical Assistance Evaluation Questionnaires provided by HUD to all entities and persons receiving assistance under this award; and (4) preparation of a final report on the accomplishments made, number of

state CDBG funded nonentitlement localities assisted, the types of assistance provided, and recommendations for future actions by HUD to improve the capacity of states to provide assistance to the localities, thereby improving the efficiency with which the program is managed at the local level. Specific instructions regarding these requirements are contained in the application kit.

II. Factors for Award

A. Evaluation Criteria

HUD will use the following criteria to rate and rank applications received in response to this NOFA. Program policy criteria as identified in 24 CFR 570.402(e)(1)(ii) will not be used in reviewing and ranking an application for funding under this NOFA. The evaluation scoring factors and subfactors, and the maximum number of points to be awarded for each are as follows (the maximum number of points is 100):

1. The probable effectiveness of the proposal in meeting the needs identified by the applicant and in accomplishing its overall objectives (45 of the 100 points). In rating this factor, HUD will consider:

- (a) The extent to which the state's assessment of needs identifies those nonentitlement localities with serious technical assistance needs; and the degree to which the basis for the assertion of serious need is information maintained in the applicant's records. Serious needs are considered to be those which directly affect effective program management and/or the delivery of CDBG funds to low- and moderate-income persons (15 points).
- (b) The extent to which the applicant employs a logical process for determining the relative importance of serious needs to select localities that will receive assistance under this proposal (15 points).
- (c) The extent to which the proposed activities demonstrate a likelihood of addressing or resolving the most serious technical assistance needs as identified by the state (15 points).

2. Soundness and cost-effectiveness of the proposed approach (25 of the 100 points). In rating this factor, HUD will consider:

- (a) The likelihood that the applicant's method or process for determining localities to receive technical assistance will result in successful selection of the most appropriate CDBG localities, given the needs identified and the proposed activities to be carried out (15 points).
- (b) The extent to which the applicant used (or intends to use) a sound

approach to determine the most appropriate method of delivery of technical assistance for each specific category of serious need to be addressed (10 points).

3. Capacity of the applicant to carry out the proposed activities in a timely and effective manner (20 of the 100 points). In rating this factor, HUD will consider:

(a) The extent to which the level of staff effort dedicated to this project is appropriate given the types of technical assistance activities proposed (on-site workshops, manuals or written guidance, etc.) (10 points).

(b) The extent to which the previous experience of the project staff (the individuals/organizations that will provide the technical assistance) working with states has impacted the State CDBG program as evidenced by qualitative or quantitative improvements in the CDBG program, as determined by:

(i) Recent direct work experience with the applicant or its CDBG funded localities in providing technical assistance related to administration of the state CDBG programs, which resulted in improvements in the administration or delivery of CDBG funded activities (5 points).

(ii) Demonstrated knowledge and experience of State CDBG program requirements at the Federal and State levels as evidenced by the amount, duration and substance of the work experience described in the staff resumes related to the administration of the State's CDBG program and technical assistance provided to State grantees (5 points).

4. The extent to which the results may be transferable or applicable to other Title I program participants (10 of the 100 points). In rating this factor, HUD will consider:

(a) The extent to which the technique(s) selected by the applicant for evaluating the results of the assistance provided is appropriate to determine the effectiveness of each technical assistance activity in addressing/resolving the most serious needs identified (5 points).

(b) The soundness of the method(s) the applicant proposes to use to inform other states of the successes achieved in resolving specific serious technical assistance needs of the nonentitled localities, where such successful efforts could be duplicated in other states facing similar needs for overall program effectiveness (5 points).

B. Selection Process

Applications for funding under this NOFA will be evaluated competitively and points will be awarded as specified in the Factors for Award section described above.

After assigning points based upon the factors for award all applications shall be listed in rank order. Applications will then be funded in rank order until all available funds have been expended. HUD reserves the right to fund all or portions of the proposed activities identified in each application, based upon the eligibility of the proposed activities.

If two or more applications have the same number of points, the application with the most points for rating factor 1.(a) shall be selected. If there is still a tie, the application with the most points for rating factor 2.(a) shall be selected.

If the amount of funds remaining after funding as many of the highest ranking applications as possible is insufficient for the next highest ranking application, HUD shall determine (based upon the proposed activities) if it is feasible to fund part of the application and offer a smaller grant to the applicant. If HUD determines that given the proposed activities a smaller grant amount would make the activities infeasible, or if the applicant turns down the reduced grant amount, HUD shall make the same determination for the next highest ranking application until all applications within the competitive range have been exhausted or available funds have been expended.

If HUD receives an insufficient number of applications to expend all funds, or if funds remain after HUD approves all approvable applications, HUD may negotiate increased amounts of grant awards up to an additional \$50,000. Increased grants will be offered in rank order to applicants in the competitive range.

III. Application Submission Process

A. Obtaining Applications

For an application kit (Request for Grant Application, RFGA), contact the Processing and Control Branch, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street SW., room 7255, Washington, DC 20410. Telephone number (202) 708-1000. Requests may also be faxed to (202) 708-3363. The TDD number is (202) 708-2565. (These are not toll free numbers.)

B. Application Deadline

To be considered for funding, the application package must be received by the Processing and Control Branch,

Office of Community Planning and Development, Department of Housing and Urban Development, room 7255, 451 Seventh Street SW., Washington, DC 20410 by the deadline date and time specified in the application kit. The application deadline is firm as to date, hour and place. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is received after the deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

C. Checklist of Application Submission

1. Application Content

Applicants must complete and submit an original and two copies of their applications in accordance with instructions contained in the application kit (RFGA). The following is a checklist of the application content that will be specified in the RFGA.

- (a) Transmittal letter.
- (b) OMB Standard Form 424 (Request For Federal Assistance) and 424B, (Non-Construction Assurances), signed and dated by the authorized representative of the state CDBG agency.
- (c) Narrative statement describing how the applicant meets each of the factors for award contained in Section II of this NOFA. The application kit will contain specific instructions for how each factor for award should be addressed.
- (d) Project budget-by-task, clearly showing how CDBG technical assistance funds will be used, including proposed travel costs, administrative and indirect costs.

2. Certifications

Applications must contain an original and two copies of the certifications identified below. Each certification must be signed by the Chief Executive Officer or its designee.

- (a) Drug-free Workplace certification
- (b) Certification regarding Lobbying pursuant to section 319 of the Department of Interior Appropriations Act of 1989, generally prohibiting use of appropriated funds for lobbying.
- (c) Certification that a Disclosure of Lobbying Activities, Standard Form LLL (SF-LLL) should be submitted if other than federally appropriated funds are used for lobbying activities.
- (d) Certification prohibiting excessive force against nonviolent civil rights demonstrators, pursuant to title IX,

section 906 of the Affordable Housing Act of 1990.

(e) HUD Form 2880, Applicant/Recipient Disclosure/Update Report.

IV. Corrections To Deficient Applications

After the submission deadline date, HUD will screen each application to determine whether it is complete. If an application lacks certain technical items or contains a technical error, such as an incorrect signatory, HUD will notify the applicant in writing that it has 14 calendar days from the date of HUD's written notification to cure the technical deficiency. If the applicant fails to submit the missing material within the 14-day cure period, HUD may disqualify the application.

This 14-day cure period applies only to non-substantive deficiencies or errors. Any deficiency capable of cure will involve only items not necessary for HUD to assess the merits of an application against the factors specified in the NOFA.

V. Other Matters

A. Environmental Review

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.20(b) of the HUD regulations, the policies and procedures in this document relate only to the provision of technical assistance services, and therefore, are categorically excluded from the requirements of the National Environmental Policy Act.

B. Section 102

Documentation and Public Access Requirements; Applicant/Recipient Disclosures: HUD Reform Act

HUD responsibilities—
Documentation and Public Access. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its quarterly **Federal Register** notice of all recipients of HUD assistance award on a competitive

basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the *Federal Register* on January 16, 1992 (57 FR 1942), for further information on these requirements.)

HUD responsibilities—Disclosures. HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period generally less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. (See 24 CFR subpart C, and the notice published in the *Federal Register* on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

State and unit of general local government responsibilities—disclosures. States and units of general local government receiving assistance under this NOFA must make all applicant disclosure reports available to the public for three years. Required update reports must be made available along with the applicant disclosure reports, but in no case for a period less than three years. Each State and unit of general local government may use HUD Form 2880 to collect the disclosures, or may develop its own form. (See 24 CFR subpart C, and the notice published in the *Federal Register* on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

C. Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of federal contracts, grants or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients and subrecipients of assistance

exceeding \$100,000 must certify that no federal funds have been or will be spent on lobbying activities in connection with the assistance.

D. Prohibition Against Lobbying of HUD Personnel

Section 112 of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235), approved December 25, 1989 (Reform Act), added a new section 13 to the Department of Housing and Urban Development Act (42 U.S.C. 3531 *et seq.*). Section 13 contains two provisions concerning efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in those efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based upon the amount of assistance received, or if they are contingent upon the receipt of assistance. Section 13 was implemented by final rule published in the *Federal Register* on May 17, 1991 (56 FR 29912). If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in Appendix A of the rule. Any questions concerning the rule should be directed to the Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Telephone: (202) 708-3815 (TDD/Voice). These are not toll-free numbers. Forms necessary for compliance with the rule may be obtained from the local HUD office.

E. Prohibition Against Advance Information on Funding Decisions

Section 103 of the Reform Act proscribes the communication of certain information by HUD employees to persons not authorized to receive that information during the selection process for the award of assistance. HUD's regulation implementing section 103 was codified at 24 CFR part 4 (see 56 FR 22088, May 13, 1991). In accordance with the requirements of section 103, HUD employees involved in the review of applications and in the making of funding decisions are restrained by 24

CFR part 4 by providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving an applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted by 24 CFR part 4. Applicants who have questions should contact the HUD Office of Ethics (202) 708-3815 (TDD/Voice). (This is not a toll-free number.)

F. Federalism Executive Order

General Counsel, as the Designated Official under section 8(a) of Executive Order 12612, Federalism, has determined that the policies and procedures contained in this NOFA will not have substantial direct effects on states or their political subdivisions, or the distribution of power and responsibilities among the various levels of government. Specifically, the NOFA solicits participation in an effort to provide technical assistance to increase the effectiveness and improve CDBG program implementation and management at the local recipient level. The NOFA does not impinge upon the relationships between the Federal government, and state and local governments.

G. Family Executive Order

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this document may have potential for significant beneficial impact on family information, maintenance and general well-being. The technical assistance provided to assist the States in improving their administration and management of State-administered Non-Entitlement CDBG programs is expected to help low-moderate income families residing in assisted CDBG communities. Since the impact on the family is considered beneficial, no further review under this order is necessary.

H. Catalog

The Catalog of Federal Domestic Assistance Program number is 14.227.

Authority: 42 U.S.C. 5301-5320; 42 U.S.C. 3535(d); 24 CFR 570.402.

Dated: April 27, 1992.

Anna Kondratas,
Assistant Secretary for Community Planning
and Development.

[FR Doc. 92-12511 Filed 5-28-92; 8:45 am]

BILLING CODE 4210-29-M

[The page contains extremely faint, illegible text, likely bleed-through from the reverse side. The text is organized into several columns and paragraphs, but no specific content can be discerned.]

Federal Register

Friday
May 29, 1992

Part V

Department of Education

**Services for Children With Deaf-Blindness
Program; Reopening the Closing Date for
Transmittal of Applications for Technical
Assistance for Transitional Services
Project; Notice**

DEPARTMENT OF EDUCATION

[CFDA No. 84.025E]

Services for Children With Deaf-Blindness Program

Reopening the Closing Date for Transmittal of Applications for Technical Assistance for Transitional Services Project under the Services for Children with Deaf-Blindness Program for Fiscal Year (FY) 1992.

Purpose: On October 11, 1991, the Office of Special Education and Rehabilitative Services (OSERS) published a notice in the *Federal Register* inviting applications for new awards for FY 1992 at 56 FR 51590. The closing date was January 17, 1992 for transmittal of applications for FY 1992.

On March 24, 1992, a review panel was convened to evaluate the single application that was submitted under the competition for Services for Children with Deaf-Blindness Program, Priority 1: Technical Assistance for Transitional Services (CFDA 84.025E). The panel recommended disapproval of the

application. In order to meet the need reflected in this priority, the Secretary believes that potential applicants should be given additional time to prepare their applications and is therefore reopening the competition and announcing a new date for transmittal of applications. This notice changes the deadline date only for applications under Priority 1: Technical Assistance for Transitional Services. The applicant who submitted an application for the original deadline has the option of withdrawing its application and resubmitting a revised application, submitting amendments to its application, or leaving the original application in this competition. Any applicant wishing to apply should request a new application package.

Deadline for Transmittal of Applications: July 10, 1992.

Deadline for Intergovernmental Review: September 10, 1992.

Available Funds: \$640,000.

Estimated Range of Awards: \$640,000.

Estimated Size of Awards: \$640,000.

Estimated Number of Awards: 1.

Project Period: Up to 36 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations, 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85 and 86; (b) the regulations for this program in 34 CFR part 307, as amended and published in the *Federal Register* at 56 FR 51582-51589; and (c) the annual funding priority for this program, Technical Assistance for Transitional Services, published in the *Federal Register* at 56 FR 51586.

For Applications or Information Contact: Joseph Clair, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 4622, Switzer Building, Washington, DC 20202-2734. Telephone: (202) 732-4503. Deaf and hard of hearing individual may call (202) 732-1169 for TDD services.

Program Authority: 20 U.S.C. 1422.

Dated: May 22, 1992.

Michael E. Vader,

Acting Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 92-12526 Filed 5-28-92; 8:45 am]

BILLING CODE 4000-01-M

Estimate Report

Friday
May 29, 1992

Part VI

Environmental Protection Agency

Guidelines for Exposure Assessment; Notice

ENVIRONMENTAL PROTECTION AGENCY I41[FRL-4129-5]

Guidelines for Exposure Assessment

AGENCY: U.S. Environmental Protection Agency

ACTION: Final guidelines for exposure assessment

SUMMARY: The U.S. Environmental Protection Agency (EPA) is today issuing final guidelines for exposure assessment. The Guidelines for Exposure Assessment (hereafter "Guidelines") are intended for risk assessors in EPA, and those exposure and risk assessment consultants, contractors, or other persons who perform work under Agency contract or sponsorship. In addition, publication of these Guidelines makes information on the principles, concepts, and methods used by the Agency available to all interested members of the public. These Guidelines supersede and replace both the Guidelines for Estimating Exposures published September 24, 1986 (51 FR 34042-34054) (hereafter "1986 Guidelines") and the Proposed Guidelines for Exposure-Related Measurements published for comment on December 2, 1988 (53 FR 48830-48853) (hereafter "1988 Proposed Guidelines"). In response to recommendations from the Science Advisory Board (SAB) and the public, the 1986 Guidelines were updated and combined with the 1988 Proposed Guidelines and retitled as the current Guidelines for Exposure Assessment.

These Guidelines establish a broad framework for Agency exposure assessments by describing the general concepts of exposure assessment including definitions and associated units, and by providing guidance on the planning and conducting of an exposure assessment. Guidance is also provided on presenting the results of the exposure assessment and characterizing uncertainty. Although these Guidelines focus on exposures of humans to chemical substances, much of the guidance contained herein also pertains to assessing wildlife exposure to chemicals, or to human exposures to biological, noise, or radiological agents. Since these latter four areas present unique challenges, assessments on these topics must consider additional factors beyond the scope of these Guidelines. The Agency may, at a future date, issue additional specific guidelines in these areas.

EFFECTIVE DATE: The Guidelines will be effective May 29, 1992.

FOR FURTHER INFORMATION CONTACT: Michael A. Callahan, Director, Exposure

Assessment Group, Office of Health and Environmental Assessment (RD-689), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, 202-260-8909.

SUPPLEMENTARY INFORMATION: In its 1983 book *Risk Assessment in the Federal Government: Managing the Process*, the National Academy of Sciences recommended that Federal regulatory agencies establish "inference guidelines" to promote consistency and technical quality in risk assessment, and to ensure that the risk assessment process is maintained as a scientific effort separate from risk management. A task force within EPA accepted that recommendation and requested that Agency scientists begin to develop such guidelines.

In 1984, EPA scientists began work on risk assessment guidelines for carcinogenicity, mutagenicity, suspect developmental toxicants, chemical mixtures, and estimating exposures. Following extensive scientific and public review, these guidelines were issued on September 24, 1986 (51 FR 33992-34054). Subsequent work resulted in the publishing of four additional proposals (one of which has recently become final): Proposed Guidelines for Assessing Female Reproductive Risk (53 FR 24834-24847), Proposed Guidelines for Assessing Male Reproductive Risk (53 FR 24850-24869), Proposed Guidelines for Exposure-Related Measurements (53 FR 48830-48853), and Proposed Amendments to the Guidelines for the Health Assessment of Suspect Developmental Toxicants (54 FR 9386-9403). The final Guidelines for Developmental Toxicity Risk Assessment, published December 5, 1991 (56 FR 63798-63826), supersede and replace the proposed amendments.

The Guidelines issued today continue the guidelines development process initiated in 1984. Like the guidelines issued in 1986, the Guidelines issued today set forth principles and procedures to guide EPA scientists in the conduct of Agency risk assessments and to inform Agency decision makers and the public about these procedures. In particular, the Guidelines standardize terminology used by the Agency in exposure assessment and in many areas outline the limits of sound scientific practice. They emphasize that exposure assessments done as part of a risk assessment need to consider the hazard identification and dose-response parts of the risk assessment in the planning stages of the exposure assessment so that these three parts can be smoothly integrated into the risk characterization. The Guidelines discuss and reference a

number of approaches and tools for exposure assessment, along with discussion of their appropriate use. The Guidelines also stress that exposure estimates along with supporting information will be fully presented in Agency risk assessment documents, and that Agency scientists will identify the strengths and weaknesses of each assessment by describing uncertainties, assumptions, and limitations, as well as the scientific basis and rationale for each assessment.

Work on these Guidelines began soon after publication of the 1986 Guidelines. At that time, the SAB recommended that the Agency develop supplementary guidelines for conducting exposure studies. This supplementary guidance was developed by an Agency work group composed of scientists from throughout the Agency, a draft was peer reviewed by experienced professionals from environmental groups, industry, academia, and other governmental agencies, and proposed for comment on December 2, 1988 (as Proposed Guidelines for Exposure-Related Measurements). In the public notice, the Agency asked for comment on whether the proposed guidelines should be combined with the 1986 guidelines in order to have a single Agency guideline for exposure assessment. Comments from the public and the SAB were heavily in favor of combining the two guidelines.

Since proposal, the Agency has reformatted the 1988 Proposed Guidelines to allow incorporation of the information in the 1986 Guidelines, and incorporated revisions resulting from additional public and SAB comments, to establish the current Guidelines. The current Guidelines were reviewed by the Risk Assessment Forum and the Risk Assessment Council, subjected to an external peer review, and presented to the SAB on September 12, 1991 for final comment (EPA-SAB-IAQC-92-015). In addition, the Guidelines were reviewed by the Working Party on Exposure Assessment, an interagency working group under the Subcommittee on Risk Assessment of the Federal Coordinating Committee on Science, Engineering and Technology. Comments of these groups have been considered in the revision of these Guidelines. The full text of the final Guidelines for Exposure Assessment is published here.

These Guidelines were developed as part of an interoffice guidelines development program under the auspices of the Risk Assessment Forum and the Office of Health and Environmental Assessment in the Agency's Office of Research and

Development. The Agency is continuing to study risk assessment issues raised in these Guidelines, and will revise them in line with new information as appropriate.

Following this preamble are two parts: Part A is the Guidelines and Part B is the Response to the Public and Science Advisory Board comments submitted in response to the 1988 Proposed Guidelines.

References, supporting documents, and comments received on the 1988 Proposed Guidelines, as well as a copy of these final Guidelines for Exposure Assessment are available for inspection at the ORD Public Information Shelf, EPA Headquarters Library (202-260-5926), 401 M Street, SW., Washington, DC, between the hours of 8 a.m. and 4:30 p.m.

Dated: April 28, 1992.

William K. Reilly,
Administrator.

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Abbreviations and Acronyms

- ADD—Average daily dose
 AF—Absorption fraction
 AT—Averaging time
 BW—Body weight
 C—Exposure concentration
 C(t)—Exposure concentration as a function of time
 CO—Carbon monoxide
 CT—Contact time
 D—Dose
 D_{app}—Applied dose
 D_{int}—Internal dose
 D_{pot}—Potential dose
 DQO—Data quality objective
 E—Exposure
 ED—Exposure duration
 EPA—U.S. Environmental Protection Agency
 F_{adh}—Adherence factor for soil
 f(t)—Absorption function
 IR—Intake rate (also ingestion or inhalation rate)
 J—Flux
 K_p—Permeability coefficient

LADD—Lifetime average daily dose
 LOAEL—Lowest observable adverse effect level
 LOD—Limit of detection
 LT—Lifetime
 M_{medium}—Amount (mass) of carrier medium material applied to the skin
 MDL—Method detection limit
 MEI—Maximally exposed individual or most exposed individual
 ND—Not detected
 PMN—Premanufacture notice
 QA—Quality assurance
 QAPP—Quality assurance project plan
 QC—Quality control
 QL—Quantification limit
 RfC—Reference concentration
 RfD—Reference dose
 SA—Surface area
 SAB—Science Advisory Board
 TEAM—Total exposure assessment methodology
 TUBE—Theoretical upper bounding estimate
 UCL—Upper confidence limit (often used to refer to the upper confidence limit of the mean)
 UR—Uptake rate

Part A: Guidelines for Exposure Assessment

1. Introduction

In 1984, the U. S. Environmental Protection Agency (EPA) initiated a program to ensure scientific quality and technical consistency of Agency risk assessments. One of the goals of the program was to develop risk assessment guidelines that would be used Agencywide. The guidelines development process includes a public review and comment period for all proposed guidelines as well as Agency Science Advisory Board review. Following the review process, the guidelines are revised if needed and then issued as final guidelines. The Guidelines for Estimating Exposures (hereafter "1986 Guidelines") were one of five guidelines issued as final in 1986 (U.S. EPA, 1986a). In 1988, the Proposed Guidelines for Exposure-Related Measurements (hereafter "1988 Proposed Guidelines") were published in the Federal Register for public review and comment (U.S. EPA, 1988a). The 1988 Proposed Guidelines were intended to be a companion and supplement to the 1986 Guidelines.

When proposing the 1988 guidelines, the Agency asked both the EPA Science Advisory Board (SAB) and the public for comments on combining the 1986 and 1988 exposure guidelines into a larger, more comprehensive guideline; the majority of comments received were in favor of doing so. Thus, these 1992 Guidelines for Exposure Assessment (hereafter "Guidelines") combine, reformat, and substantially update the earlier guidelines. These guidelines make use of developments in the

exposure assessment field since 1988, both revising the previous work and adding several topics not covered in the 1986 or 1988 guidelines. Therefore, the 1992 guidelines are being issued by the Agency as a replacement for both the 1986 Guidelines and the 1988 Proposed Guidelines.

1.1. Intended Audience

This document is intended for exposure and risk assessors in the Agency and those exposure and risk assessment consultants, contractors, or other persons who perform work under Agency contract or sponsorship. Risk managers in the Agency may also benefit from this document since it clarifies the terminology and methods used by assessors, which in some cases could strengthen the basis for decisions. In addition, publication of these guidelines makes information on the principles, concepts, and methods used by the Agency available to other agencies, States, industry, academia, and all interested members of the public.

1.2. Purpose and Scope of the Guidelines

There are a number of different purposes for exposure assessments, including their use in risk assessments, status and trends analysis, and epidemiology. These Guidelines are intended to convey the general principles of exposure assessment, not to serve as a detailed instructional guide. The technical documents cited here provide more specific information for individual exposure assessment situations. As the Agency performs more exposure assessments and incorporates new approaches, these Guidelines will be revised.

Agency risk assessors should use these Guidelines in conjunction with published guidelines for assessing health effects such as cancer (U.S. EPA, 1986b), developmental toxicity (U.S. EPA, 1991a), mutagenic effects (U.S. EPA, 1986c), and reproductive effects (U.S. EPA, 1988b; U.S. EPA, 1988c). These exposure assessment guidelines focus on human exposure to chemical substances. Much of the guidance contained herein also applies to wildlife exposure to chemicals, or human exposure to biological, physical (i.e., noise), or radiological agents. Since these areas present unique challenges, however, assessments on these topics must consider additional factors beyond the scope of these Guidelines.

For example, ecological exposure and risk assessment may deal with many species which are interconnected via complex food webs, while these guidelines deal with one species,

humans. While these guidelines discuss human exposure on the individual and population levels, ecological exposure and risk assessments may need to address community, ecosystem, and landscape levels, also. Whereas chemical agents may degrade or be transformed in the environment, biological agents may of course grow and multiply, an area not covered in these guidelines. The Agency may, at a future date, issue specific guidelines in these areas.

Persons subject to these Guidelines should use the terms associated with chemical exposure assessment in a manner consistent with the glossary in Section 8. Throughout the public comment and SAB review process, the Agency has sought definitions that have consensus within the scientific community, especially those definitions common to several scientific fields. The Agency is aware that certain well understood and widely accepted concepts and definitions in the area of health physics (such as the definition of exposure) differ from the definitions in this glossary. The definitions in this glossary are not meant to replace such basic definitions used in another field of science. It was not possible, however, to reconcile all the definitions used in various fields of science, and the ones used in the glossary are thought to be the most appropriate for the field of chemical exposure assessment.

The Agency may, from time to time, issue updates of or revisions to these Guidelines.

1.3. Organization of the Guidelines

These Guidelines are arranged in an order that assessors commonly use in preparing exposure assessments. Section 2 deals with general concepts, section 3 with planning, section 4 with data development, section 5 with calculating exposures, section 6 with uncertainty evaluation, and section 7 with presenting the results. In addition, these Guidelines include a glossary of terms (section 8) and references to other documents (section 9).

2. General Concepts in Exposure Assessment

Exposure assessment in various forms dates back at least to the early twentieth century, and perhaps before, particularly in the fields of epidemiology (World Health Organization [WHO], 1983), industrial hygiene (Cook, 1969; Paustenbach, 1985), and health physics (Upton, 1988). Epidemiology is the study of disease occurrence and the causes of disease, while the latter fields deal primarily with occupational exposure.

Exposure assessment combines elements of all three disciplines. This has become increasingly important since the early 1970s due to greater public, academic, industrial, and governmental awareness of chemical pollution problems.

Because there is no agreed-upon definition of the point on or in the body where exposure takes place, the terminology used in the current exposure assessment literature is inconsistent. Although there is reasonable agreement that human exposure means contact with the chemical or agent (Allaby, 1983; Environ Corporation, 1988; Hodgson *et al.*, 1988; U.S. EPA, 1986a), there has not yet been widespread agreement as to whether this means contact with (a) the visible exterior of the person (skin and openings into the body such as mouth and nostrils), or (b) the so-called exchange boundaries where absorption takes place (skin, lung, gastrointestinal tract).¹ These different definitions have led to some ambiguity in the use of terms and units for quantifying exposure.²

Comments on the 1986 Guidelines and the 1988 Proposed Guidelines suggested that EPA examine how exposure and dose were defined in Agency assessments and include guidance on appropriate definitions and units. After internal discussions and external peer review, it is the Agency's position that defining exposure as taking place at the visible external boundary, as in (a) above, is less ambiguous and more consistent with nomenclature in other scientific fields. This is a change from the 1986 Guidelines.

Under this definition, it is helpful to think of the human body as having a hypothetical outer boundary separating inside the body from outside the body. This outer boundary of the body is the skin and the openings into the body such as the mouth, the nostrils, and punctures and lesions in the skin. As used in these Guidelines, exposure to a chemical is the contact of that chemical with the outer boundary. An exposure assessment is the quantitative or

qualitative evaluation of that contact; it describes the intensity, frequency, and duration of contact, and often evaluates the rates at which the chemical crosses the boundary (chemical intake or uptake rates), the route by which it crosses the boundary (exposure route; e.g., dermal, oral, or respiratory), and the resulting amount of the chemical that actually crosses the boundary (a dose) and the amount absorbed (internal dose).

Depending on the purpose for which an exposure assessment will be used, the numerical output of an exposure assessment may be an estimate of either exposure or dose. If exposure assessments are being done as part of a risk assessment that uses a dose-response relationship, the output usually includes an estimate of dose.³ Other risk assessments, for example many of those done as part of epidemiologic studies, use empirically derived exposure-response relationships, and may characterize risk without the intermediate step of estimating dose.

2.1. Concepts of Exposure, Intake, Uptake, and Dose

The process of a chemical entering the body can be described in two steps: contact (exposure), followed by actual entry (crossing the boundary). Absorption, either upon crossing the boundary or subsequently, leads to the availability of an amount of the chemical to biologically significant sites within the body (internal dose⁴). Although the description of contact with the outer boundary is simple conceptually, the description of a chemical crossing this boundary is somewhat more complex.

There are two major processes by which a chemical can cross the boundary from outside to inside the body. Intake involves physically moving the chemical in question through an opening in the outer boundary (usually the mouth or nose), typically via inhalation, eating, or drinking. Normally the chemical is contained in a medium

such as air, food, or water; the estimate of how much of the chemical enters into the body focuses on how much of the carrier medium enters. In this process, mass transfer occurs by bulk flow, and the amount of the chemical itself crossing the boundary can be described as a chemical intake rate. The chemical intake rate is the amount of chemical crossing the outer boundary per unit time, and is the product of the exposure concentration times the ingestion or inhalation rate. Ingestion and inhalation rates are the amount of the carrier medium crossing the boundary per unit time, such as m³ air breathed/hour, kg food ingested/day, or liters of water consumed/day. Ingestion or inhalation rates typically are not constant over time, but often can be observed to vary within known limits.⁵

The second process by which a chemical can cross the boundary from outside to inside the body is uptake. Uptake involves absorption of the chemical through the skin or other exposed tissue such as the eye. Although the chemical is often contained in a carrier medium, the medium itself typically is not absorbed at the same rate as the chemical, so estimates of the amount of the chemical crossing the boundary cannot be made in the same way as for intake (see section 2.1.3.). Dermal absorption is an example of direct uptake across the outer boundary of the body.⁶ A chemical uptake rate is the amount of chemical absorbed per unit time. In this process, mass transfer occurs by diffusion, so uptake can depend on the concentration gradient across the boundary, permeability of the barrier, and other factors. Chemical uptake rates can be expressed as a function of the exposure concentration, permeability coefficient, and surface area exposed, or as a flux (see section 2.1.4.).

The conceptual process of contact, then entry and absorption, can be used to derive the equations for exposure and dose for all routes of exposure.

2.1.1. Exposure

The condition of a chemical contacting the outer boundary of a human is exposure. Most of the time, the chemical is contained in air, water, soil, a product, or a transport or carrier medium; the chemical concentration at the point of contact is the exposure

¹ A third, less common, scheme is that exposure is contact with any boundary outside or inside of the body, including internal boundaries around organs, etc. This scheme is alluded to, for example, in an article prepared by the National Research Council (NRC, 1985, p. 91). One could then speak of exposure to the whole person or exposure to certain internal organs.

² For example, the amount of food ingested would be a dose under scheme (a) and an exposure under scheme (b). Since the amount ingested in an animal toxicology study is usually termed administered dose, this leads to the use of both exposure and dose for the same quantity under scheme (b). There are several such ambiguities in any of the currently used schemes. Brown (1987) provides a discussion of various units used to describe exposures due to multiple schemes.

³ The National Research Council's 1983 report *Risk Assessment in the Federal Government: Managing the Process* often addresses the output of an exposure assessment as an exposure or a dose (NRC 1983, pp. 32, 35-38).

⁴ These guidelines use the term internal dose to refer to the amount of a chemical absorbed across the exchange boundaries, such as the skin, lung, or gastrointestinal tract. The term absorbed dose is often used synonymously for internal dose, although the connotation for the term absorbed dose seems to be more related to a specific boundary (the amount absorbed across a membrane in an experiment, for example), while the term internal dose seems to connote a more general sense of the amount absorbed across one or more specific sites. For the purpose of these guidelines, the term internal dose is used for both connotations. The term internal dose as used here is also consistent with how it is generally applied to a discussion of biomarkers (NRC, 1989a). It is also one of the terms used in epidemiology (NRC, 1985).

⁵ Ingestion of food or water is an intermittent rather than continuous process, and can be expressed as (amount of medium per event) \times (events per unit clock or calendar time) [the frequency of contact]; (e.g., 250 mL of water/glass of water ingested \times 8 glasses of water ingested/day).

⁶ Uptake through the lung, gastrointestinal tract, or other internal barriers also can occur following intake through ingestion or inhalation.

concentration. Exposure over a period of time can be represented by a time-dependent profile of the exposure concentration. The area under the curve of this profile is the magnitude of the exposure, in concentration-time units (Lioy, 1990; NRC, 1990):

$$E = \int_{t_1}^{t_2} C(t) dt \quad (2-1)$$

where E is the magnitude of exposure, C(t) is the exposure concentration as a function of time, and t is time, $t_2 - t_1$ being the exposure duration (ED). If ED is a continuous period of time (e.g., a day, week, year, etc.), then C(t) may be zero during part of this time. ⁷ Integrated exposures are done typically for a single individual, a specific chemical, and a particular pathway or exposure route over a given time period. ⁸

The integrated exposures for a number of different individuals (a population or population segment, for example), may then be displayed in a histogram or curve (usually, with integrated exposure increasing along the abscissa or x-axis, and the number of individuals at that integrated exposure increasing along the ordinate or y-axis). This histogram or curve is a presentation of an exposure distribution for that population or population segment. The utility of both individual exposure profiles and population exposure distributions is discussed in Section 2.3.

2.1.2. Applied Dose and Potential Dose

Applied dose is the amount of a chemical at the absorption barrier (skin, lung, gastrointestinal tract) available for absorption. It is useful to know the applied dose if a relationship can be established between applied dose and internal dose, a relationship that can sometimes be established experimentally. Usually, it is very difficult to measure the applied dose directly, as many of the absorption barriers are internal to the human and are not localized in such a way to make measurement easy. An approximation of applied dose can be made, however,

using the concept of potential dose⁹ (Lioy, 1990; NRC, 1990).

Potential dose is simply the amount of the chemical ingested, inhaled, or in material applied to the skin. It is a useful term or concept for those instances in which there is exposure to a discrete amount of chemical or transport medium, such as eating a certain amount of food or applying a certain amount of material to the skin. ¹⁰

The potential dose for ingestion and inhalation is analogous to the administered dose in a dose-response experiment. Human exposure to environmental chemicals is generally inadvertent rather than administered, so in these Guidelines it is termed potential dose rather than administered dose. Potential dose can be used for dose-response relationships based on administered dose.

For the dermal route, potential dose is the amount of chemical applied, or the amount of chemical in the medium applied, for example as a small amount of particulate deposited on the skin. Note that as all of the chemical in the particulate is not contacting the skin, this differs from exposure (the concentration in the particulate times the time of contact) and applied dose (the amount in the layer actually touching the skin).

The applied dose, or the amount that reaches the exchange boundaries of the skin, lung, or gastrointestinal tract, may often be less than the potential dose if the material is only partly bioavailable. Where data on bioavailability are known, adjustments to the potential dose to convert it to applied dose and internal dose may be made. ¹¹

⁹ Potential dose is the potential amount of the chemical that could be absorbed if it were 100% bioavailable. Note, however, that this does not imply that 100% bioavailability or 100% absorption is assumed when using potential dose. The equations and discussion in this chapter use potential dose as a measurable quantity that can then be converted to applied or absorbed dose by the use of the appropriate factors. Potential dose is a general term referring to any of the exposure routes. The terms respiratory dose, oral dose, or dermal dose are sometimes used to refer to the route-specific potential doses.

¹⁰ It is not useful to calculate potential doses in cases where there is partial or total immersion in a fluid such as air or water. In these cases, it is more useful to describe the situation in terms of exposure (concentration of the chemical in the medium times the time of contact) or absorbed dose. For cases such as contact with water in a swimming pool, the person is not really exposed to the entire mass of the chemical that would be described by a potential dose. Nor is it useful to calculate dermal applied doses because the boundary layer is being constantly renewed. The use of alternate ways to calculate a dose that might occur while swimming is discussed in Section 2.1.4.2., in conjunction with Equations 2-7 and 2-8.

¹¹ This may be done by adding a bioavailability factor (range: 0 to 1) to the dose equation. The bioavailability factor would then take into account

2.1.3. Internal Dose

The amount of a chemical that has been absorbed and is available for interaction with biologically significant receptors is called the internal dose. Once absorbed, the chemical can undergo metabolism, storage, excretion, or transport within the body. The amount transported to an individual organ, tissue, or fluid of interest is termed the delivered dose. The delivered dose may be only a small part of the total internal dose. The biologically effective dose, or the amount that actually reaches cells, sites, or membranes where adverse effects occur (NRC, 1990, p. 29), may only be a part of the delivered dose, but it is obviously the crucial part. Currently, most risk assessments dealing with environmental chemicals (as opposed to pharmaceutical assessments) use dose-response relationships based on potential (administered) dose or internal dose, since the pharmacokinetics necessary to base relationships on the delivered dose or biologically effective doses are not available for most chemicals. This may change in the future, as more becomes known about the pharmacokinetics of environmental chemicals.

Doses are often presented as dose rates, or the amount of a chemical dose (applied or internal) per unit time (e.g., mg/day), or as dose rates on a per-unit-body-weight basis (e.g., mg/kg/day).

Distributions of individual doses within a population or population segment may be displayed in a histogram or curve analogous to the exposure distributions described in section 2.1.1. The utility of individual dose profiles, as well as the utility of population distributions of dose are described more fully in section 2.3.

2.1.4. Exposure and Dose Relationships

Depending on the use of the exposure assessment, estimates of exposure and dose in various forms may be required.

- Exposure concentrations are useful when comparing peak exposures to levels of concern such as short-term exposure limits (STELs). They are typically expressed in units such as $\mu\text{g}/\text{m}^3$, mg/m^3 , mg/kg , $\mu\text{g}/\text{L}$, mg/L , ppb, or ppm.

- Exposure or dose profiles describe the exposure concentration or dose as a function of time. Concentration and time are used to depict exposure, while amount and time characterize dose;

the ability of the chemical to be extracted from the matrix, absorption through the exchange boundary, and any other losses between ingestion and contact with the lung or gastrointestinal tract. When no data or information are available to indicate otherwise, the bioavailability factor is usually assumed to be 1.

⁷ Contact time (CT) is that part of the exposure duration where C(t) does not equal zero; that is, the actual time periods (events, episodes) during which actual exposure is taking place. The exposure duration as defined here, on the other hand, is a time interval of interest for assessment purposes during which exposure occurs, either continuously or intermittently.

⁸ An exposure pathway is the course a chemical takes from its source to the person being contacted. An exposure route is the particular means of entry into the body, e.g., inhalation, ingestion, or dermal absorption.

graphical or tabular presentations may be used for either type of profile.

Such profiles are very important for use in risk assessment where the severity of effect is dependent on the pattern by which the exposure occurs rather than the total (integrated) exposure. For example, a developmental toxin may only produce effects if exposure occurs during a particular stage of development. Similarly, a single acute exposure to very high contaminant levels may induce adverse effects even if the average exposure is much lower than apparent no-effect levels. Such profiles will become increasingly important as biologically based dose-response models become available.

- Integrated exposures are useful when a total exposure for a particular route (i.e., the total for various pathways leading to exposure via the same route) is needed. Units of integrated exposure are concentration times time. The integrated exposure is the total area under the curve of the exposure profile (Equation 2-1). Note that an exposure profile (a picture of exposure concentration over time) contains more information than an integrated exposure (a number), including the duration and periodicity of exposure, the peak exposure, and the shape of the area under the time-concentration curve.

- Time-weighted averages are widely used in exposure assessments, especially as part of a carcinogen risk assessment. A time-weighted average exposure concentration (units of

concentration) is the integrated exposure divided by the period where exposure occurs, and is useful in some of the equations discussed below in estimating dose. A time-weighted average dose rate is the total dose divided by the time period of dosing, usually expressed in units of mass per unit time, or mass/time normalized to body weight (e.g., mg/kg/day). Time-weighted average dose rates such as the lifetime average daily dose (LADD) are often used in dose-response equations to estimate effects or risk.¹²

The discussion in the next three sections focuses on exposure via inhalation, oral intake, and dermal absorption. Other exposure routes are possible, however, including direct introduction into the bloodstream via injection or transfusion, contamination of exposed lesions, placental transfer, or use of suppositories. The exposures and doses for these routes can be calculated

¹²Current carcinogen risk models, such as the linearized multistage procedure and other linear nonthreshold models, use lifetime exposures to develop the dose-response relationships, and therefore use lifetime time-weighted average exposures to estimate risks. Within the range of linearity for risk, this procedure effectively treats exposures and doses as a series of "units," with each unit of dose being equal to any other unit of dose in terms of risk potential without respect to prior exposure or dose patterns. Current research in the field of dose-response modeling is focusing on biologically based dose-response models which may take into account the effects of the exposure or dose patterns, making use of all of the information in an exposure or dose profile. For a more indepth discussion on the implications of the use of time-weighted averages, see Atherley (1985).

in a similar manner, depending on whether an intake or uptake process is involved.

Although equations for calculating exposure, dose, and their various averages are in widespread use in exposure assessment, the assessor should consider the implications of the assumptions used to derive the equations. Simplifying assumptions used in deriving the equations may mean that variations in exposure concentration, ingestion or inhalation rate, permeability coefficient, surface area exposed, and absorption fraction can introduce error into the estimate of dose if average values are used, and this must be considered in the evaluation of uncertainty (section 6).

2.1.4.1. Calculating Potential Dose for Intake Processes

The general equation for potential dose for intake processes, e.g., inhalation and ingestion (see Figure 2-1 for illustration of various exposures and doses) is simply the integration of the chemical intake rate (concentration of the chemical in the medium times the intake rate of the medium, C times IR) over time:

$$D_{pot} = \int_{t_1}^{t_2} C(t) IR(t) dt \quad (2-2)$$

where D_{pot} is potential dose and $IR(t)$ is the ingestion or inhalation rate.

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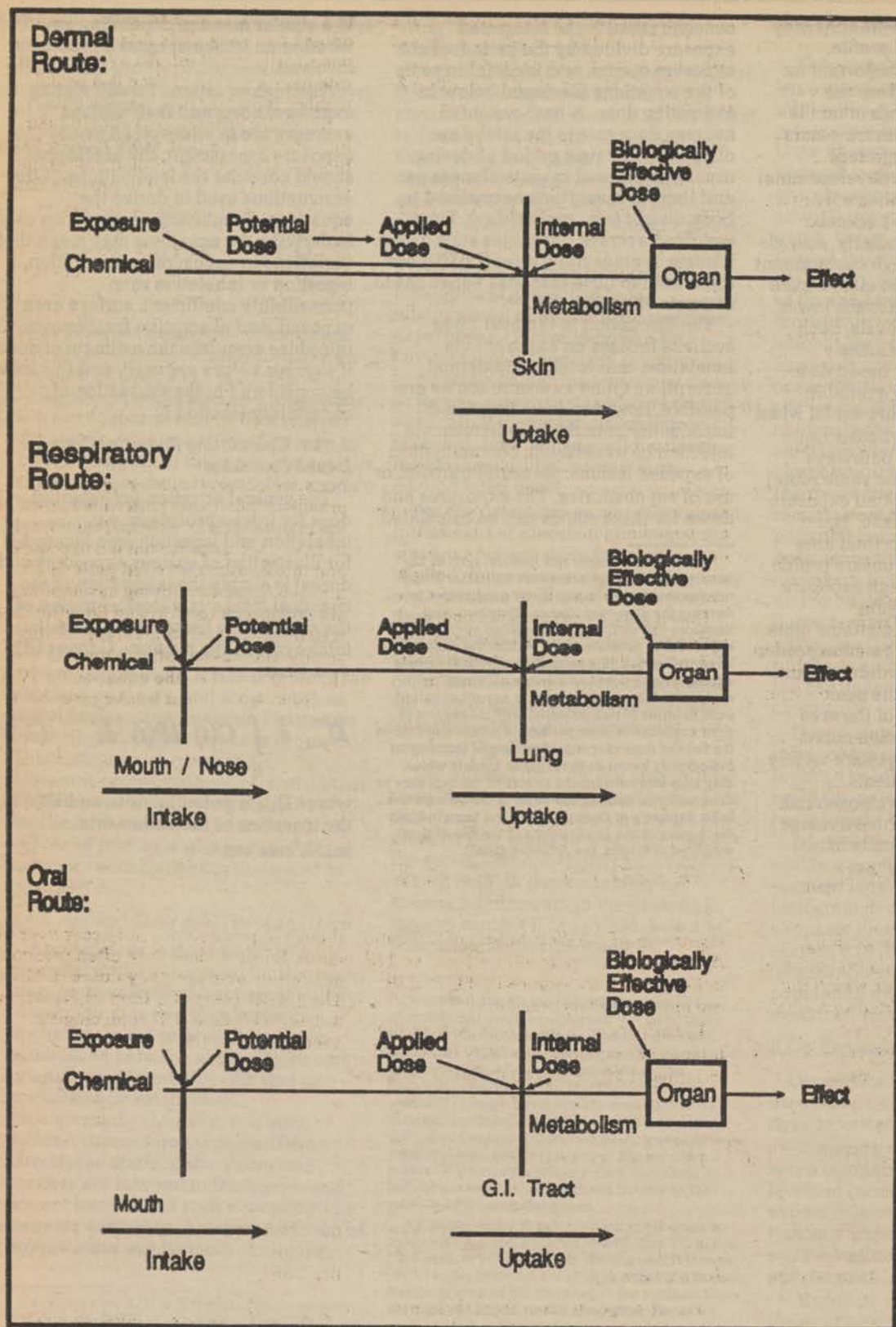


Figure 2-1. Schematic of dose and exposure.

The quantity $t_2 - t_1$, as before, represents the period of time over which exposure is being examined, or the exposure duration (ED). The exposure duration may contain times where the chemical is in contact with the person, and also times when $C(t)$ is zero. Contact time represents the actual time period where the chemical is in contact with the person. For cases such as ingestion, where actual contact with food or water is intermittent, and consequently the actual contact time may be small, the intake rate is usually expressed in terms of a frequency of events (e.g., 8 glasses of water consumed per day) times the intake per event (e.g., 250 mL of water/glass of water consumed). Intermittent air exposures (e.g., 8 hours exposed/day times one cubic meter of air inhaled/hour) can also be expressed easily using exposure duration rather than contact time. Hereafter, the term exposure duration will be used in the examples below to refer to the term $t_2 - t_1$, since it occurs frequently in exposure assessments and it is often easier to use.

Equation 2-2 can also be expressed in discrete form as a summation of the doses received during various events i:

$$D_{pot} = \sum_i C_i \cdot IR_i \cdot ED_i \quad (2-3)$$

where ED_i is the exposure duration for event i. If C and IR are nearly constant (which is a good approximation if the contact time is very short), Equation 2-3 becomes:

$$D_{pot} = \bar{C} \cdot \bar{IR} \cdot ED \quad (2-4)$$

where ED is the sum of the exposure durations for all events, and \bar{C} and \bar{IR} are the average values for these parameters. Equation 2-4 will not necessarily hold in cases where C and IR vary considerably. In those cases, Equation 2-3 can be used if the exposure can be broken out into segments where C and IR are approximately constant. If even this condition cannot be met, Equation 2-2 may be used.

For risk assessment purposes, estimates of dose should be expressed in a manner that can be compared with available dose-response data. Frequently, dose-response relationships are based on potential dose (called administered dose in animal studies), although dose-response relationships are sometimes based on internal dose.

Doses may be expressed in several different ways. Solving Equations 2-2, 2-3, or 2-4, for example, gives a total dose accumulated over the time in question. The dose per unit time is the dose rate, which has units of mass/time

(e.g., mg/day). Because intake and uptake can vary, dose rate is not necessarily constant. An average dose rate over a period of time is a useful number for many risk assessments.

Exposure assessments should take into account the time scale related to the biological response studied unless the assessment is intended to provide data on the range of biological responses (NRC, 1990, p. 28). For many noncancer effects, risk assessments consider the period of time over which the exposure occurred, and often, if there are no excursions in exposure that would lead to acute effects, average exposures or doses over the period of exposure are sufficient for the assessment. These averages are often in the form of average daily doses (ADDs).

An ADD can be calculated from Equation 2-2 by averaging D_{pot} over body weight and an averaging time, provided the dosing pattern is known so the integral can be solved. It is unusual to have such data for human exposure and intake over extended periods of time, so some simplifying assumptions are commonly used. Using Equation 2-4 instead of 2-2 or 2-3 involves making steady-state assumptions about C and IR , but this makes the equation for ADD easier to solve.¹³ For intake processes, then, using Equation 2-4, this becomes:

$$ADD_{pot} = [\bar{C} \cdot \bar{IR} \cdot ED] / [BW \cdot AT] \quad (2-5)$$

where ADD_{pot} is the average daily potential dose, BW is body weight, and AT is the time period over which the dose is averaged (converted to days). As with Equation 2-4, the exposure concentration \bar{C} is best expressed as an estimate of the arithmetic mean

regardless of the distribution of the data. Again, using average values for C and IR in Equation 2-5 assumes that C and IR are approximately constant.

For effects such as cancer, where the biological response is usually described in terms of lifetime probabilities, even

though exposure does not occur over the entire lifetime, doses are often presented as lifetime average daily doses (LADDs). The LADD takes the form of Equation 2-5, with lifetime (LT) replacing the averaging time (AT):

$$ADD_{pot} = [\bar{C} \cdot \bar{IR} \cdot ED] / [BW \cdot LT] \quad (2-6)$$

The LADD is a very common term used in carcinogen risk assessment where linear nonthreshold models are employed.

2.1.4.2. Calculating Internal Dose for Uptake Processes (Especially via the Dermal Route)

For absorption processes, there are two methods generally in use for calculating internal dose. The first, commonly used for dermal absorption from a liquid where at least partial immersion occurs, is derived from the equation for internal dose, D_{int} , which is analogous to Equation 2-2 except that

the chemical uptake rate ($C \cdot K_p \cdot SA$) replaces the chemical intake rate ($C \cdot IR$). Thus,

$$D_{int} = \int_{t_1}^{t_2} C(t) \cdot K_p \cdot SA(t) dt \quad (2-7)$$

¹³ The assessor should keep in mind that this steady state assumption has been made when using Equation 2-5, and should be able to discuss what effect using average values for C , IR , and ED has on the resulting estimate.

where K_p is the permeability coefficient, and SA is the surface area exposed. Both C and SA will vary over time, and although K_p may not vary over time, it may vary over different parts of the body. Unlike the intake processes, where the rate of the carrier medium crossing the boundary can be observed or measured, the carrier may or may not cross the absorption barrier; the equations must be in terms of the

chemical itself crossing. The flow of the chemical across the barrier (or flux, J) is not directly measurable, and is dependent on many factors including the nature of the chemical, the nature of the barrier, active transport versus passive diffusion processes, and the concentration of the chemical contacting the barrier. The relationship between the flux and the exposure concentration¹⁴ is usually expressed as a permeability coefficient, K_p , which is

experimentally measurable.¹⁵ The internal dose that is analogous to the potential dose in Equation 2-4 would be:

$$D_{int} = \bar{C} \cdot K_p \cdot \bar{SA} \cdot ED \quad (2-8)$$

where \bar{SA} is the average surface area exposed and the ADD_{int} (average daily internal dose) becomes:

$$ADD_{int} = [\bar{C} \cdot K_p \cdot \bar{SA} \cdot ED] / [BW \cdot AT] \quad (2-9)$$

(The corresponding $LADD_{int}$ would be obtained by substituting LT for AT.) This is the method to use when calculating internal dose for a swimmer. The total body surface area (SA) is assumed to be exposed to a layer of water with an average chemical concentration \bar{C} for a period of time (ED). It is not necessary to know the mass of the chemical that comes in contact with the skin. The assumptions necessary in going from Equation 2-7 to Equation 2-9 are comparable to those

made in deriving Equation 2-5. Recall that both C and SA will vary over time, and K_p may not be constant over different parts of the body. If the assumption used to derive Equation 2-5 (that these variables are nearly constant) does not hold, a different form of the equation having several terms must be used.

The second method of calculating internal dose uses empirical observations or estimates of the rate that a chemical is absorbed when a dose

is administered or applied. It is useful when a small or known amount of material (such as a particulate) or a chemical (such as a pesticide) contacts the skin. The potential dose of a chemical to the skin, D_{pot} , can often be calculated from knowing the concentration (C) and the amount of carrier medium applied (M_{medium}), either as a whole or on a unit surface area basis. For example, potential dose from dermal contact with soil can be calculated using the following equation:

$$D_{pot} = \bar{C} \cdot M_{medium} = \bar{C} \cdot F_{adh} \cdot \bar{SA} \cdot ED \quad (2-10)$$

where D_{pot} is potential dose, M_{medium} is amount of soil applied, and F_{adh} is the adherence factor for soil (the amount of soil applied to and adhering to the skin on a unit surface area per unit time).

The relationship between potential dose and applied dose for dermal exposures is that potential dose includes the amount of the chemical in the total amount of medium contacting the skin, e.g., the amount of chemical in the soil whether or not all the chemical itself ever comes in direct contact, and applied dose includes only that amount of the chemical which actually directly

touches the skin. Theoretically, the relationship between the applied dose (D_{app}) and the internal (or absorbed) dose (D_{int}) can be thought of as:

$$D_{int} = D_{app} \int_{t_1}^{t_2} f(t) dt \quad (2-11)$$

where $f(t)$ is a complicated nonlinear absorption function, usually not measurable, having the dimensions of mass absorbed per mass applied per unit time. The absorption function will

vary due to a number of factors (concentration gradient of chemical, carrier medium, type of skin, skin moisture, skin condition, etc.). If $f(t)$ could be integrated over time from the start of exposure until time T, it would yield the absorption fraction, AF, which is the fraction of the applied dose that is absorbed after time T. The absorption fraction is a cumulative number and can increase with time to a possible maximum of 1 (or 100% absorption), but due to competing processes may reach steady state long before reaching 100% absorption. Equation 2-11 then becomes:

¹⁴ This relationship is described by Fick's Law, where $J = K_p \cdot C$ where C represents the steady-state concentration of the chemical, J is the steady-state flux, and K_p is the permeability coefficient.

¹⁵ The permeability coefficient, K_p , can be experimentally calculated for a chemical and a particular barrier (e.g., skin type) by observing the

flux rate *in vitro* (typical units: mg chemical/sec-cm²), and dividing it by the concentration of the chemical in the medium in contact with the barrier (typical units: mg chemical/cm³). This allows the relationship between bulk concentration and the crossing of the chemical itself to be made. K_p has the advantage of being fairly

constant over a range of concentrations and can be used for concentrations other than the one used in the experiment. The chemical uptake rate, relating the crossing of the barrier of the chemical itself in terms of the bulk concentration, then becomes C times K_p times the surface area exposed (SA).

$$D_{int} = D_{app} \cdot AF \quad (2-12)$$

where AF is the absorption fraction in units of mass absorbed/mass applied (dimensionless).

If one assumes that all the chemical contained in the bulk material will eventually come in contact with the skin, then D_{app} equals D_{pot} and using Equation 2-12, the D_{int} equation becomes:

$$D_{int} = D_{pot} \cdot AF \quad (2-13)$$

and (using Equations 2-9 and 2-10) consequently:

$$ADD_{int} = [\bar{C} \cdot M_{medium} \cdot AF] / [BW \cdot AT] \quad (2-14)$$

where M_{medium} is the mass of the bulk material applied to the skin. For reasons explained below, this approximation will by no means always give credible results. The key is whether all the chemical contained in the bulk medium can actually contact the skin. Although with certain liquids or small amounts of material, the applied dose may be approximately equal to the potential dose, in cases where there is contact with more than a minimal amount of soil, there is research that indicates that using this approximation may cause serious error (Yang *et al.*, 1989). When this approximation does not hold, the assessor must make assumptions about how much of the bulk material actually contacts the skin, or use the first method of estimating internal dose outlined above.

Unfortunately, almost no data are available concerning the relationship between potential dose and applied dose for dermal exposures. Experimental data on absorption fractions derived for soil commonly use potential dose rather than applied dose, which may make the experimental data at least in part dependent on experimental conditions such as how much soil was applied. If the exposure assessment conditions are similar to those in the experiment, this would not usually introduce much error, but if the conditions vary widely, the error introduced may be difficult to determine.

As a practical matter, estimates of absorption fraction are often crude approximations and may be difficult to refine even if some data from experiments are available in the published literature. Typically, absorption experiments report results as an absorption fraction after a given time (e.g., 50% after 24 hours). Since absorption fraction is a function of several variables such as skin temperature, pH, moisture content, and

exposed surface area, as well as characteristics of the matrix in which the chemical occurs (e.g., soil particle size distribution, organic matter content, and moisture content), it is often difficult to make comparisons between experimental data and conditions being considered for an assessment.

With single data points, it may not be clear whether the experiment reached steady state. If several data points are available from different times in the experiment, a plot of absorption fraction vs. time may be instructive. For chemicals where data are available for steady-state conditions, the steady-state value will probably be a good approximation to use in assessments where exposure duration is at least this long, provided the conditions in the experiment are similar to those of the case being assessed. Assessors should be very cautious in applying absorption fractions for moderately absorbed chemicals (where observed experimental absorption fractions are not in the steady-state part of the cumulative curve), or in using experimental data for estimates of absorption over a much shorter duration than in the experiment.

In almost all cases, the absorption fraction method of estimating internal dose from applied dose gives only an approximation of the internal dose. The interested reader is referred to U.S. EPA (1992b) for more thorough guidance on dermal exposure assessment.

2.1.4.3. Calculating Internal Dose for Intake Processes (Especially via Respiratory and Oral Routes)

Chemicals in air, food, or drinking water normally enter the body through intake processes, then are subsequently absorbed through internal uptake processes in the lung or gastrointestinal tract. Sometimes it is necessary to estimate resulting internal dose, D_{int} , after intake. In addition, if enough is

known about the pharmacokinetics of the chemical to make addition of doses across routes a meaningful exercise, the doses must be added as internal dose, not applied dose, potential dose, or exposure.

Theoretically, one could calculate D_{int} in these cases by using an equation similar to Equation 2-7; but C in that equation would become the concentration of the chemical in the lung or gastrointestinal tract, SA would be the internal surface area involved, and K_p would be the permeability coefficient of the lung or gastrointestinal tract lining. Although data from the pharmaceutical field may be helpful in determining, for example, internal surface areas, all of the data mentioned above are not known, nor are they measurable with current instrumentation.

Because Equations 2-2 through 2-4 estimate the potential dose D_{pot} , which is the amount ingested or inhaled, and Equations 2-11 and 2-12 provide relationships between the applied dose (D_{app}) and internal dose (D_{int}), all that is necessary is a relationship between potential dose and applied dose for intake processes. Again, data on this topic are virtually nonexistent, so a common assumption is that for intake processes, the potential dose equals the applied dose. Although arguments can be made that this assumption is likely to be more nearly accurate than for the case of soil contact, the validity of this assumption is unknown at this point. Essentially, the assumption of equality means that whatever is eaten, drunk, or inhaled touches an absorption barrier inside the person.

Assuming potential dose and applied dose are approximately equal, the internal dose after intake can be estimated by combining Equations 2-2 or 2-3 and 2-10 or 2-11. Using Equations 2-3 and 2-11, this becomes:

$$D_{int} = D_{app} \cdot AF \approx D_{pot} \cdot AF = \bar{C} \cdot \bar{IR} \cdot ED \cdot AF \quad (2-15)$$

The ADD_{int} for the two-step intake/uptake process becomes:

$$ADD_{int} \approx ADD_{pot} \cdot AF = [\bar{C} \cdot \bar{IR} \cdot ED \cdot AF] / [BW \cdot AT] \quad (2-16)$$

Using average values for \bar{C} and \bar{IR} in Equations 2-15 and 2-16 involves the same assumptions and cautions as were discussed in deriving the ADD and LADD equations in the previous two sections, and of course, the same

cautions apply to the use of the absorption fraction as were outlined in section 2.1.4.2.

2.1.5. Summary of Exposure and Dose Terms With Example Units

Table 2-1 provides a summary of the exposure and dose terms discussed in section 2.1, along with examples of units commonly used.

TABLE 2-1.—EXPLANATION OF EXPOSURE AND DOSE TERMS.

| Term | Refers to | Generic units | Specific example units |
|-------------------------------|--|----------------------------------|--|
| Exposure..... | Contact of chemical with outer boundary of a person, e.g., skin, nose, mouth. | Concentration \times time..... | Dermal: (mg chem/L water) \times (hrs of contact) (mg chem/kg soil) \times (hrs of contact) Respiratory: (ppm chem in air) \times (hrs of contact) (μ g/m ³ air) \times (days of contact) Oral: (mg chem/L water) \times (min of contact) (mg chem/kg food) (min of contact) |
| Potential Dose..... | Amount of a chemical contained in material ingested, air breathed, or bulk material applied to the skin. | Mass of the chemical:..... | Dermal: (mg chem/kg soil) \times (kg soil on skin) = mg chem in soil applied to skin Dose rate is mass of the chemical/time; The dose rate is sometimes normalized to body weight: mass of chemical/unit body weight \times time Respiratory: (\times g chem/m ³ air) \times (m ³ air breathed/min) \times (min exposed) = \times g chemical in air breathed Oral: (mg chem/L water) \times (L water consumed/day) \times days exposed = mg chemical ingested in water (also dose rate: mg/day) |
| Applied Dose..... | Amount of chemical in contact with the primary absorption boundaries (e.g., skin, lungs, gastrointestinal tract) and available for absorption. | As above..... | Dermal: (mg chem/kg soil) \times (kg soil directly touching skin) \times (% of chem in soil actually touching skin) = mg chem actually touching skin Respiratory: (\times g chem/m ³ air) \times (m ³ air directly touching lung) (% of chemical actually touching lung) = mg chemical actually touching lung absorption barrier Oral: (mg chem/kg food) \times (kg food consumed/day) \times (% of chemical touching g.i. tract) = mg chemical actually touching g.i. tract absorption barrier (also absorbed dose rate: mg/day) chemical available to organ or cell |
| Internal (Absorbed) Dose..... | The amount of a chemical penetrating across an absorption barrier or exchange boundary via either physical or biological processes. | As above..... | (dose rate: mg chemical available to organ/day) Dermal: mg chemical absorbed through skin Respiratory: mg chemical absorbed via lung Oral: mg chemical absorbed via g.i. tract |
| Delivered Dose..... | Amount of chemical available for interaction with any particular organ or cell. | As above..... | (dose rate: mg chemical absorbed/day or mg/kg \times day) mg chemical available to organ or cell (dose rate: mg chemical available to organ/day) |

2.2. Approaches to Quantification of Exposure

Although exposure assessments are done for a variety of reasons (see Section 3), the quantitative exposure

estimate can be approached from three different ways:¹⁶

¹⁶ These three ways are approaches for arriving at a quantitative estimate of exposure. Sometimes the approaches to assessing exposure are described in terms of "direct measures" and "indirect measures" of exposure (e.g., NRC, 1990). Measurements that actually involve sampling on or within a person, for

example, use of personal monitors and biomarkers, are termed "direct measures" of exposure. Use of models, microenvironmental measurements, and questionnaires, where measurements do not actually involve personal measurements, are termed "indirect measures" of exposure. The direct/indirect nomenclature focuses on the type of measurements being made; the scenario evaluation/point-of-contact/reconstruction nomenclature focuses on

Continued

1. The exposure can be measured at the point of contact (the outer boundary of the body) while it is taking place, measuring both exposure concentration and time of contact and integrating them (point-of-contact measurement).

2. The exposure can be estimated by separately evaluating the exposure concentration and the time of contact, then combining this information (scenario evaluation).

3. The exposure can be estimated from dose, which in turn can be reconstructed through internal indicators (biomarkers,¹⁷ body burden, excretion levels, etc.) after the exposure has taken place (reconstruction).

These three approaches to quantification of exposure (or dose) are independent, as each is based on different data. The independence of the three methods is a useful concept in verifying or validating results. Each of the three has strengths and weaknesses; using them in combination can considerably strengthen the credibility of an exposure or risk assessment. Sections 2.2.1 through 2.2.3 briefly describe some of the strengths and weaknesses of each approach.

2.2.1. Measurement of Exposure at the Point-of-Contact

Point-of-contact exposure measurement evaluates the exposure as it occurs, by measuring the chemical concentrations at the interface between the person and the environment as a function of time, resulting in an exposure profile. The best known example of the point-of-contact measurement is the radiation dosimeter. This small badge-like device measures exposure to radiation as it occurs and provides an integrated estimate of exposure for the period of time over which the measurement has been taken. Another example is the Total Exposure Assessment Methodology (TEAM) studies (U.S. EPA, 1987a) conducted by the EPA. In the TEAM studies, a small pump with a collector and absorbent was attached to a person's clothing to measure his or her exposure to airborne solvents or other pollutants as it occurred. A third example is the carbon monoxide (CO) point-of-contact measurement studies where subjects carried a small CO measuring device for several days (U.S. EPA, 1984a). Dermal patch studies and duplicate meal studies

are also point-of-contact measurement studies. In all of these examples, the measurements are taken at the interface between the person and the environment while exposure is occurring. Use of these data for estimating exposures or doses for periods that differ from those for which the data are collected (e.g., for estimates of lifetime exposures) will require some assumptions, as discussed in Section 5.3.1.

The strength of this method is that it measures exposure directly, and providing that the measurement devices are accurate, is likely to give the most accurate exposure value for the period of time over which the measurement was taken. It is often expensive, however, and measurement devices and techniques do not currently exist for all chemicals. This method may also require assumptions to be made concerning the relationship between short-term sampling and long-term exposures, if appropriate. This method is also not source-specific, a limitation when particular sources will need to be addressed by risk managers.

2.2.2. Estimates of Exposure from Scenario Evaluation

In exposure scenario evaluation, the assessor attempts to determine the concentrations of chemicals in a medium or location and link this information with the time that individuals or populations contact the chemical. The set of assumptions about how this contact takes place is an exposure scenario. In evaluating exposure scenarios, the assessor usually characterizes the chemical concentration and the time of contact separately. This may be done for a series of events, e.g., by using Equation 2-3, or using a steady-state approximation, e.g., using Equation 2-4.

The goal of chemical concentration characterization is to develop estimates of exposure concentration. This is typically accomplished indirectly by measuring, modeling, or using existing data on concentrations in the bulk media, rather than at the point of contact. Assuming the concentration in the bulk medium is the same as the exposure concentration is a clear source of potential error in the exposure estimate and must be discussed in the uncertainty analysis. Generally, the closer the medium can be measured to the point of contact (in both space and time), the less uncertainty there is in the characterization of exposure concentration.

The goal of characterizing time of contact is to identify who is exposed and to develop estimates of the

frequency and duration of exposure. Like chemical concentration characterization, this is usually done indirectly by use of demographic data, survey statistics, behavior observation, activity diaries, activity models, or, in the absence of more substantive information, assumptions about behavior.

The chemical concentration and population characterizations are ultimately combined in an exposure scenario, and there are various ways to accomplish this. One of the major problems in evaluating dose equations such as Equations 2-4 through 2-6 is that the limiting assumptions or boundary conditions used to derive them (e.g., steady-state assumptions; see section 2.1.4.) do not always hold true. Two major approaches to this problem are (1) to evaluate the exposure or dose equation under conditions where the limiting assumptions do hold true, or (2) to deal with the uncertainty caused by the divergence from the boundary conditions. As an example of the first way, the microenvironment method, usually used for evaluating air exposures, evaluates segments of time and location where the assumption of constant concentration is approximately true, then sums over all such time segments for a total exposure for the respiratory route, effectively removing some of the boundary conditions by falling back to the more general Equation 2-3. While estimates of exposure concentration and time-of-contact are still derived indirectly by this method, the concentration and time-of-contact estimates can be measured for each microenvironment. This avoids much of the error due to using average values in cases where concentration varies widely along with time of contact.¹⁸

As examples of the second approach, there are various tools used to describe uncertainty caused by parameter variation, such as Monte Carlo analysis (see section 5). Section 6 discusses some of these techniques in more detail.

One strength of the scenario evaluation approach is that it is usually the least expensive method of the three.

¹⁸ This technique still may not deal effectively with the problem of short-term "peak concentrations" exceeding some threshold leading to an acute effect. Even the averaging process used in a microenvironment may miss significant concentration spikes and average them out to lower concentrations which are apparently less toxicologically significant. A similar problem exists when evaluating sources; a "peak release" of a toxic chemical for a short time may cause serious acute effects, even though the average concentration over a longer period of time might not indicate serious chronic effects.

how the data are used to develop the dose estimate. The three-term nomenclature is used in these guidelines to highlight the point that three independent estimates of dose can be developed.

¹⁷ Biomarkers can be used to study exposure, effects, or susceptibility. The discussion of biomarkers in these guidelines is limited to their use in indicating exposure.

Also, it is particularly suited to analysis of the risk consequences of proposed actions. It is both a strength and a weakness of scenario development that the evaluation can be performed with little or no data; it is a technique that is best used when some knowledge exists about the soundness, validity, and uncertainty of the underlying assumptions.

2.2.3. Exposure Estimation by Reconstruction of Internal Dose

Exposure can also be estimated after it has taken place. If a total dose is known, or can be reconstructed, and information about intake and uptake rates is available, an average past exposure rate can be estimated. Reconstruction of dose relies on measuring internal body indicators after exposure and intake and uptake have already occurred, and using these measurements to back-calculate dose. However, the data on body burden levels or biomarkers cannot be used directly unless a relationship can be established between these levels or biomarker indications and internal dose, and interfering reactions (e.g., metabolism of unrelated chemicals) can be accounted for or ruled out. Biological tissue or fluid measurements that reveal the presence of a chemical may indicate directly that an exposure has occurred, provided the chemical is not a metabolite of other chemicals.

Biological monitoring can be used to evaluate the amount of a chemical in the body by measuring one or more of the following items. Not all of these can be measured for every chemical:

- The concentration of the chemical itself in biological tissues or sera (blood, urine, breath, hair, adipose tissue, etc.).
- The concentration of the chemical's metabolite(s).
- The biological effect that occurs as a result of human exposure to the chemical (e.g., alkylated hemoglobin or changes in enzyme induction), or
- The amount of a chemical or its metabolites bound to target molecules.

The results of biomonitoring can be used to estimate chemical uptake during a specific interval if background levels do not mask the marker and the relationships between uptake and the marker selected are known. The time of sampling for biomarkers can be critical. Establishing a correlation between exposure and the measurement of the marker, including pharmacokinetics, can help optimize the sampling conditions.

The strengths of this method are that it demonstrates that exposure to and absorption of the chemical has actually taken place, and it theoretically can give a good indication of past exposure. The

drawbacks are that it will not work for every chemical due to interferences or the reactive nature of the chemical, it has not been methodologically established for very many chemicals, data relating internal dose to exposure are needed, and it may be expensive.

2.3. Relationships of Exposure and Dose to Risk

Exposure and dose information are often combined with exposure-response or dose-response relationships to estimate risk, the probability of an adverse effect occurring. There are a variety of risk models, with various mathematical relationships between risk and dose or (less frequently) exposure. A major function of the exposure assessment as part of a risk assessment is to provide the exposure or dose values, and their interpretations.

The exposure and dose information available will often allow estimates of individual risk or population risk, or both. Presentation of risks in a risk assessment involves more than merely a numerical value, however. Risks can be described or characterized in a number of different ways. This section discusses the relationships between exposure and dose and a series of risk descriptors.

In preparing exposure information for use in a risk assessment, the use of several descriptors, including descriptors of both individual and population risk, often provides more useful information to the risk manager than a single descriptor or risk value. Developing several descriptors may require the exposure assessor to analyze and evaluate the exposure and dose information in several different ways. The exposure assessor should be aware of the purpose, scope, and level of detail of the assessment (see Sections 3.1 through 3.3) before gathering data, since the types and amounts of data needed may differ. The questions that need to be addressed as a result of the purpose of the assessment determine the type of risk descriptors used in the assessment.

2.3.1. Individual Risk

Individual risk is risk borne by individual persons within a population. Risk assessments almost always deal with more than a single individual. Frequently, individual risks are calculated for some or all of the persons in the population being studied, and are then put into the context of where they fall in the distribution of risks for the entire population. Descriptions of individual risk can take various forms, depending on the questions being addressed. For the risk manager, there are often key questions in mapping out a strategy for dealing with individual risk.

For cancer (or when possible, noncancer) assessments, the risk manager may need answers to questions such as:

- Are individuals at risk from exposure to the substances under study? Although for substances, such as carcinogens, that are assumed to have no threshold, only a zero dose would result in no excess risk; for noncarcinogens, this question can often be addressed. In the case of the use of hazard indices, where exposures or doses are compared to a reference dose or some other acceptable level, the risk descriptor would be a statement based on the ratio between the dose incurred and the reference dose.

- To what risk levels are the persons at the highest risk subjected?
- Who are these people, what are they doing, where do they live, etc., and what might be putting them at this higher risk?
- Can people with a high degree of susceptibility be identified?
- What is the average individual risk?

In addressing these questions, risk descriptors may take any of several forms:

- An estimate of the probability that an individual in the high end of the distribution may suffer an adverse effect, along with an explanation (to the extent known) of the (exposure or susceptibility) factors which result in their being in the high end;
- An estimate of the probability that an individual at the average or median risk may suffer an adverse effect; or
- An estimate of the probability that an individual will suffer an adverse effect given a specific set of exposure circumstances.

Individuals at the high end of the risk distribution are often of interest to risk managers when considering various actions to mitigate risk. These individuals often are either more susceptible to the adverse health effect than others in the population or are highly exposed individuals, or both.

Higher susceptibility may be the result of a clear difference in the way the chemical is processed by the body, or it may be the result of being in the extreme part of the normal range in metabolism for a population. It may not always be possible to identify persons or subgroups who are more susceptible than the general population. If groups of individuals who have clearly different susceptibility characteristics can be identified, they can be treated as a separate subpopulation, and the risk assessment for this subgroup may require a different dose-response relationship from the one used for the

general population. When highly susceptible individuals can be identified, but when a different dose-response relationship is not appropriate or feasible to develop, the risks for these individuals are usually treated as part of the variability of the general population.

Highly exposed individuals have been described in the literature using many different terms. Due to unclear definitions, terms such as most exposed individual,¹⁹ worst case exposure,²⁰ and reasonable worst case exposure²¹ have sometimes been applied to a variety of *ad hoc* estimates with unclear target ranges. The term most exposed individual has often been used synonymously with worst case exposure, that is, to estimate the exposure of the individual with the highest actual or possible exposure. An accurate estimate of the exposure of the person in the distribution with the highest exposure is extremely difficult to develop; uncertainty in the estimate usually increases greatly as the more extreme ends of the distribution are approached. Even using techniques such as Monte Carlo simulations can result in high uncertainty about whether the estimate is within, or above, the actual exposure distribution.

For the purpose of these guidelines, a high end exposure estimate is a plausible estimate of the individual exposure for those persons at the upper end of an exposure distribution. The intent of this designation is to convey an estimate of exposures in the upper range of the distribution, but to avoid estimates that are beyond the true distribution. Conceptually, the high end of the distribution means above the 90th

percentile of the population distribution, but not higher than the individual in the population who has the highest exposure. High-end dose estimates are described analogously.

The concept of the high end exposure, as used in this guidance, is fundamentally different from terms such as worst case, in that the estimate is by definition intended to fall on the actual (or in the case of scenarios dealing with future exposures, probable) exposure distribution.

Key Point: The primary objective when developing an estimate of high-end exposure or dose is to arrive at an estimate that will fall within the actual distribution, rather than above it. (Estimates above the distribution are bounding estimates; see section 5.3.4.1.) Often this requires professional judgment when data are sparse, but the primary objective of this type of estimator is to be within this fairly wide conceptual target range.

The relationship between answering the questions about high-end individual risk and what the exposure assessor must do to develop the descriptors is discussed in section 3.4. Individual risk descriptors will generally require the assessor to make estimates of high-end exposure or dose, and sometimes additional estimates (e.g., estimates of central tendency such as average or median exposure or dose).

Another type of individual risk descriptor results from specific sets of circumstances that can be hypothesized as part of a scenario, for example:

- What if a homeowner lives at the edge of this site for his entire life?
- What if a pesticide applicator applies this pesticide without using protective equipment?
- What if a consumer uses this product every day for ten years? Once a month? Once a week?
- What risk level will occur if we set the standard at 100 ppb?

The assumptions made in answering these assessment-specific postulated questions should not be confused with the approximations made in developing an exposure estimate for an existing population or with the adjustments in parameter values made in performing a sensitivity analysis. The assumptions in these specific questions address a purer "if/then" relationship and, as such, are more helpful in answering specific hypothetical or anecdotal questions. The answers to these postulated questions do not give information about how likely the combination of values might be in the actual population or about how many (if any) persons might actually be subjected to the calculated risk.

Exposure scenarios employing these types of postulated questions are encountered often in risk assessments, especially in those where actual exposure data are incomplete or nonexistent. Although the estimates of individual exposure derived from these assumptions provide numerical values for calculating risk, they do so more as a matter of context than a determination of actual exposure. They are not the same types of estimates as high-end exposure or risk, where some statement must be made about the likelihood of their falling within a specified range in the actual exposure or risk distribution.

2.3.2. Population Risk

Population risk refers to an estimate of the extent of harm for the population or population segment being addressed. Risk managers may need questions addressed such as the following:

- How many cases of a particular health effect might be probabilistically estimated for a population of interest during a specified time period?
- For noncarcinogens, what portion of the population exceeds the reference dose (RfD), the reference concentration (RfC), or other health concern level?
- For carcinogens, how many persons are above a certain risk level such as 10^{-6} or a series of risk levels such as 10^{-5} , 10^{-4} , etc?
- How do various subgroups fall within the distributions of exposure, dose, and risk?
- What is the risk for a particular population segment?
- Do any particular subgroups experience a high exposure, dose, or risk?

The risk descriptors for population risk can take any of several forms:

- A probabilistic projection of the estimated extent of occurrence of a particular effect for a population or segment (sometimes called "number of cases" of effect);
- A description of what part of the population (or population segment) is above a certain risk value of interest; or
- A description of the distribution of risk among various segments or subgroups of the population.

In theory, an estimate of the extent of effects a population might incur (e.g., the number of individual cases that might occur during a specified time) can be calculated by summing the individual risks for all individuals within the population or population segment of interest. The ability to calculate this estimate depends on whether the individual risks are in terms of probabilities for each individual, rather than a hazard index or other

¹⁹ The uppermost portion of the high-end exposure range has generally been the target for terms such as "most exposed individual," although actual usage has varied.

²⁰ The term "worst case exposure" has historically meant the maximum possible exposure, or where everything that can plausibly happen to maximize exposure, happens. While in actuality, this worst case exposure may fall on the uppermost point of the population distribution, in most cases, it will be somewhat higher than the individual in the population with the highest exposure. The worst case represents a hypothetical individual and an extreme set of conditions; this will usually not be observed in an actual population. The worst case and the so-called maximum exposed individual are therefore not synonymous, the former describing a statistical possibility that may or may not occur in the population, and the latter ostensibly describing an individual that does, or is thought to, exist in the population.

²¹ The lower part of the high-end exposure range, e.g., conceptually above the 90th percentile but below about the 98th percentile, has generally been the target used by those employing the term "reasonable worst case exposure." Above about the 98th percentile has been termed the "maximum exposure" range. Note that both these terms should refer to estimates of exposure on the actual distribution, not above it.

nonprobabilistic risk. The calculation also requires a great deal more information than is normally available.

For some assessments, an alternate method is used, provided certain conditions hold. An arithmetic mean dose is usually much easier to estimate than the individual doses of each person in the population or population segment, but calculating the hypothetical number of cases by using mean doses, slope factors, and population size must be done with considerable caution. If the risk varies linearly with dose, and there is no threshold below which no effect ever occurs, an estimate of the number of cases that might occur can be derived from the definition of arithmetic mean. If $A = T/n$, where A is the arithmetic mean of n numbers, and T is the sum of the same n numbers, simple rearrangement gives $T = A \times n$. If the arithmetic mean risk for the population (A) can be estimated, and the size of the population (n) is known, then this relationship can be used to calculate a probabilistic estimate of the extent of effects (T).²² Even so, several other cautions apply when using this method.

Individual risks are usually expressed on an upper bound basis, and the resulting number of cases estimated in this manner will normally be an upper bound estimate due to the nature of the risk model used. This method will not work at all for nonlinear dose-response models, such as many noncancer effects or for nonlinear carcinogenic dose-response models.

In practice, it is difficult even to establish an accurate mean health effect risk for a population. This is due to many complications, including uncertainties in using animal data for human dose-response relationships, nonlinearities in the dose-response curve, projecting incidence data from one group to another dissimilar group, etc. Although it has been common practice to estimate the number of cases of disease, especially cancer, for populations exposed to chemicals, it should be understood that these estimates are not meant to be accurate predictions of real (or actuarial) cases of disease. The estimate's value lies in framing hypothetical risk in an understandable way rather than in any literal interpretation of the term "cases."

Another population risk descriptor is a statement regarding how many people are thought to be above a certain risk level or other point of demarcation. For carcinogens, this might be an excess risk level such as 10^{-6} (or a series of levels, i.e., 10^{-6} , 10^{-4} , etc.). For noncarcinogenic risk, it might be the portion of the population that exceeds the RfD (a dose), the RfC (an exposure concentration), an effect-based level such as a lowest observed adverse effect level (LOAEL), etc. For the exposure assessor, this type of descriptor usually requires detailed information about the distribution of exposures or doses.

Other population risk descriptors address the way the risk burden is distributed among various segments of the subject population. The segments (or subgroups) could be divided by geographic location, age, sex, ethnic background, lifestyle, economic factors, or other demographic variables, or they could represent groups of persons with a typical sensitivity or susceptibility, such as asthmatics.

For assessors, this means that data may need to be evaluated for both highly exposed population segments and highly sensitive population segments. In cases involving a highly exposed population segment, the assessor might approach this question by having this segment of the population in mind when developing the descriptors of high-end exposure or dose. Usually, however, these segments are identified (either *a priori* or from inspection of the data) and then treated as separate, unique populations in themselves, with segment-specific risk descriptors (population, individual, etc.) analogous to those used for the larger population.

2.3.3. Risk Descriptors

In summary, exposure and dose information developed as part of an exposure assessment may be used in constructing risk descriptors. These are statements to convey information about risk to users of that information, primarily risk managers. Risk descriptors can be grouped as descriptors of individual risk or population risk, and within these broad categories, there are several types of descriptors. Not all descriptors are applicable to all assessments. As a matter of policy, the Agency or individual program offices within the Agency may require one or more of these descriptors to be included in specific risk assessments. Because the type of descriptor translates fairly directly into the type of analysis the exposure assessor must perform, the

exposure assessor needs to be aware of these policies. Additional information on calculating and presenting exposure estimates and risk descriptors is found in sections 5 and 7 of these Guidelines.

3. Planning an Exposure Assessment

Exposure assessments are done for a variety of purposes, and for that reason, cannot easily be regimented into a set format or protocol. Each assessment, however, uses a similar set of planning questions, and by addressing these questions the assessor will be better able to decide what is needed to perform the assessment and how to obtain and use the information required. To facilitate this planning, the exposure assessor should consider some basic questions:

Purpose: Why is the study being conducted? What questions will the study address and how will the results be used?

Scope: Where does the study area begin and end? Will inferences be made on a national, regional, or local scale? Who or what is to be monitored? What chemicals and what media will be measured, and for which individuals, populations, or population segments will estimates of exposure and dose be developed?

Level of Detail: How accurate must the exposure or dose estimate be to achieve the purpose? How detailed must the assessment be to properly account for the biological link between exposure, dose, effect, and risk, if necessary? How is the depth of the assessment limited by resources (time and money), and what is the most effective use of those resources in terms of level of detail of the various parts of the assessment?

Approach: How will exposure or dose be measured or estimated, and are these methods appropriate given the biological links among exposure, dose, effect, and risk? How will populations be characterized? How will exposure concentrations be estimated? What is known about the environmental and biological fate of the substance? What are the important exposure pathways? What is known about expected concentrations, analytical methods, and detection limits? Are the presently available analytical methods capable of detecting the chemical of interest and can they achieve the level of quality needed in the assessment? How many samples are needed? When will the samples be collected? How frequently? How will the data be handled, analyzed, and interpreted?

By addressing each of these questions, the exposure assessor will develop a clear and concise definition of study

²² Since the geometric mean (G) is defined differently, use of the geometric mean individual risk (where G does not equal A , such as is often found in environmental situations) in the above relationship will obviously give an erroneous (usually low) estimate of the total. Geometric means have appropriate uses in exposure and risk assessment, but estimating population risk in this way is not one of them.

objectives that will form the basis for further planning.

3.1. Purpose of the Exposure Assessment

The particular purpose for which an exposure assessment will be used will often have significant implications for the scope, level of detail, and approach of the assessment. Because of the complex nature of exposure assessments, a multidisciplinary approach that encompasses the expertise of a variety of scientists is necessary. Exposure assessors should seek assistance from other scientists when they lack the expertise necessary in certain areas of the assessment.

3.1.1. Using Exposure Assessments in Risk Assessment

The National Research Council (NRC, 1983) described exposure assessment as one of the four major areas of risk assessment (the others are hazard identification, dose-response assessment, and risk characterization). The primary purpose of an exposure assessment in this application is often to estimate dose, which is combined with chemical-specific dose-response data (usually from animal studies) in order to estimate risk. Depending on the purpose of the risk assessment, the exposure assessment will need to emphasize certain areas in addition to quantification of exposure and dose.

If the exposure assessment is part of a risk assessment to support regulations for specific chemical sources, such as point emission sources, consumer products, or pesticides, then the link between the source and the exposed or potentially exposed population is important. In this case, it is often necessary to trace chemicals from the source to the point of exposure by using source and fate models and exposure scenarios. By examining the individual components of a scenario, assessors can focus their efforts on the factors that contribute the most to exposure, and perhaps use the exposure assessment to select possible actions to reduce risk. For example, exposure assessments are often used to compare and select control or cleanup options. Most often the scenario evaluation is employed to estimate the residual risk associated with each of the alternatives under consideration. These estimates are compared to the baseline risk to determine the relative risk reduction of each alternative. These types of assessments can also be employed to make screening decisions about whether to further investigate a particular chemical. These assessments can also benefit from verification through the use

of personal or biological monitoring techniques.

If the exposure assessment is part of a risk assessment performed to set standards for environmental media, usually the concentration levels in the medium that pose a particular risk level are important. Normally, these assessments place less emphasis on the ultimate source of the chemical and more emphasis on linking concentration levels in the medium with exposure and dose levels of those exposed. A combination of media measurements and personal exposure monitoring could be very helpful in assessments for this purpose, since what is being sought is the relationship between the two. Modeling may also support or supplement these assessments.

If the exposure assessment is part of a risk assessment used to determine the need to remediate a waste site or chemical spill, the emphasis is on calculating the risk to an individual or small group, comparing that risk to an acceptable risk level, and if necessary determining appropriate cleanup actions to reach an acceptable risk. The source of chemical contamination may or may not be known. Although personal exposure monitoring can give a good indication of the exposure or dose at the present time, often the risk manager must make a decision that will protect health in the future. For this reason, modeling and scenario development are the primary techniques used in this type of assessment. Emphasis is usually placed on linking sources with the exposed individuals. Biological monitoring may also be helpful (in cases where the methodology is established) in determining if exposure actually results in a dose, since some chemicals are not bioavailable even if intake occurs.

If the exposure assessment is part of a risk assessment used as a screening device for setting priorities, the emphasis is more on the comparative risk levels, perhaps with the risk estimates falling into broad categories (e.g., semi-quantitative categories such as high, medium, and low). For such quick-sorting exercises, rarely are any techniques used other than modeling and scenario development. Decisions made in such cases rarely involve direct cleanup or regulatory action without further refinement of the risk assessment, so the scenario development approach can be a cost-effective way to set general priorities for future investigation of worst risk first.

If the exposure assessment is part of a risk assessment that is wholly predictive in nature, such as for the

premanufacture notice (PMN) program, a modeling and scenario development approach is recommended. In such cases, measurement of chemicals yet to be manufactured or in the environment is not possible. In this case again, the link between source and exposed individuals is emphasized.

Not only are risk assessments done for a variety of purposes, but the toxic endpoints being assessed (e.g., cancer, reproductive effects, neurotoxic effects) can also vary widely. Endpoints and other aspects of the hazard identification and dose-response relationships can have a major effect on how the exposure information must be collected and analyzed for a risk assessment. This is discussed in more detail in section 3.5.1.

3.1.2. Using Exposure Assessments for Status and Trends

Exposure assessments can also be used to determine whether exposure occurs and to monitor status and trends. The emphasis in these exposure assessments is on what the actual exposure (or dose) is at one particular time, and how the exposure changes over time. Examples of this type of assessment are occupational studies. Characteristics and special considerations for occupational studies have been discussed by the National Institute for Occupational Safety and Health (NIOSH, 1988).

Exposure status is the snapshot of exposure at a given time, usually the exposure profile of a population or population segment (perhaps a segment or statistical sample that can be studied periodically). Exposure trends show how this profile changes with time. Normally, status and trends studies make use of statistical sampling strategies to assure that changes can be interpreted meaningfully. These data are particularly useful if actions for risk amelioration and demonstration of the effectiveness of these actions can be made through exposure trend measurements.

Measurement is critical to such assessments. Personal monitoring can give the most accurate picture of exposure, but biological or media monitoring can indicate exposure levels, provided a strong link is established between the biological or media levels and the exposure levels. Usually this link is established first by correlating biological or media levels with personal monitoring data for the same population over the same period.

3.1.3. Using Exposure Assessments in Epidemiologic Studies

Exposure assessments can also be important components of epidemiologic studies, where the emphasis is on using the exposure assessment to establish exposure-incidence (or dose-effect) relationships. For this purpose, personal monitoring, biological monitoring, and scenario development have all been used. If the population under study is being currently exposed, personal monitoring or biological monitoring may be particularly helpful in establishing exposure or dose levels. If the exposure took place in the past, biological monitoring may provide useful data, provided the chemical is amenable to detection without interference or degradation, and the pharmacokinetics are known. More often, however, scenario development techniques are used to estimate exposure in the past, and often the accuracy of the estimate is limited to classifying exposure as high, medium, or low. This type of categorization is rather common, but sometimes it is very difficult to determine who belongs in a category, and to interpret the results of the study. Although epidemiologic protocols are beyond the scope of these Guidelines, the use of exposure assessment for epidemiology has been described by the World Health Organization (WHO, 1983).

3.2. Scope of the Assessment

The scope of an assessment refers to its comprehensiveness. For example, an important limitation in many exposure assessments relates to the specific chemical(s) to be evaluated. Although this seems obvious, where exposure to multiple chemicals or mixtures is possible, it is not always clear whether assessing "all" chemicals will result in a different risk value than if only certain significant chemicals are assessed and the others assumed to contribute only a minor amount to the risk. This may also be true for cases where degradation products have equal or greater toxicological concerns. In these cases, a preliminary investigation may be necessary to determine which chemicals are likely to be in high enough concentrations to cause concern, with the possible contribution of the others discussed in the uncertainty assessment. The assessor must also determine geographical boundaries, population exposed, environmental media to be considered, and exposure pathways and routes of concern.

The purpose of the exposure assessment will usually help define the scope. There are characteristics that are

unique to national exposure assessments as opposed to industry-wide or local exposure assessments. For example, exposure assessments in support of national regulations must be national in scope; exposure assessments to support cleanup decisions at a site will be local in scope. Exposure assessments to support standards for a particular medium will often concentrate on that medium's concentration levels and typical exposure pathways and routes, although the other pathways and routes are also often estimated for perspective.

3.3. Level of Detail of the Assessment

The level of detail, or depth of the assessment, is measured by the amount and resolution of the data used, and the sophistication of the analysis employed. It is determined by the purpose of the exposure assessment and the resources available to perform the assessment. Although in theory the level of detail needed can be established by determining the accuracy of the estimate required, this is rarely the case in practice. To conserve resources, most assessments are done in an iterative fashion, with a screening done first; successive iterations add more detail and sophistication. After each iteration, the question is asked, is this level of detail or degree of confidence good enough to achieve the purpose of the assessment? If the answer is no, successive iterations continue until the answer is affirmative, new input data are generated, or as is the case for many assessments, the available data, time, or resources are depleted. Resource-limited assessments should be evaluated in terms of what part of the original objectives have been accomplished, and how this affects the use of the results.

The level of detail of an exposure assessment can also be influenced by the level of sophistication or uncertainty in the assessment of health effects to be used for a risk assessment. If only very weak health information is available, a detailed, costly, and in-depth exposure assessment will in most cases be wasteful, since the most detailed information will not add significantly to the certainty of the risk assessment.

3.4. Determining the Approach for the Exposure Assessment

The intended use of the exposure assessment will generally favor one approach to quantifying exposure over the others, or suggest that two or more approaches be combined. These approaches to exposure assessment can be viewed as different ways of estimating the same exposure or dose. Each has its own unique characteristics,

strengths, and weaknesses, but the estimate should theoretically be the same, independent of the approach taken.

The point-of-contact approach requires measurements of chemical concentrations at the point where they contact the exposed individuals, and a record of the length of time of contact at each concentration. Some integrative techniques are inexpensive and easy to use (radiation badges), while others are costly and may present logistical challenges (personal continuous-sampling devices), and require public cooperation.

The scenario evaluation approach requires chemical concentration and time-of-contact data, as well as information on the exposed persons. Chemical concentration may be determined by sampling and analysis or by use of fate and transport models (including simple dilution models). Models can be particularly helpful when some analytical data are available, but resources for additional sampling are limited. Information on human behavior and physical characteristics may be assumed or obtained by interviews or other techniques from individuals who represent the population of interest.

For the reconstruction of dose approach, the exposure assessor usually uses measured body burden or specific biomarker data, and selects or constructs a biological model that uses these data to account for the chemical's behavior in the body. If a pharmacokinetic model is used, additional data on metabolic processes will be required (as well as model validation information). Information on exposure routes and relative source strengths is also helpful.

One of the goals in selecting the approach should include developing an estimate having an acceptable amount of uncertainty. In general, estimates based on quality-assured measurement data, gathered to directly answer the questions of the assessment, are likely to have less uncertainty than estimates based on indirect information. The approach selected for the assessment will determine which data are needed. All three approaches also require data on intake and uptake rates if the final product of the assessment is a calculated dose.

Sometimes more than one approach is used to estimate exposure. For example, the TEAM study combines point-of-contact measurement with the microenvironment (scenario evaluation) approach and breath measurements for the reconstruction of dose approach (U.S. EPA, 1987a). If more than one

approach is used, the assessor should consider how using each approach separately can verify or validate the others. In particular, point-of-contact measurements can be used as a check on assessments made by scenario evaluation.

3.5. Establishing the Exposure Assessment Plan

Before starting work on an exposure assessment, the assessor should have determined the purpose, scope, level of detail, and approach for the assessment, and should be able to translate these into a set of objectives. These objectives will be the foundation for the exposure assessment plan. The exposure assessment plan need not be a lengthy or formal document, especially for assessments that have a narrow scope and little detail. For more complex exposure assessments, however, it is helpful to have a written plan.

For exposure assessments being done as part of a risk assessment, the exposure assessment plan should reflect (in addition to the objectives) an understanding of how the results of the exposure assessment will be used in the risk assessment. For some assessments, three additional components may be needed: the sampling strategy (section 3.5.2), the modeling strategy (section 3.5.3), and the communications strategy (section 7.1.3).

3.5.1. Planning an Exposure Assessment as Part of a Risk Assessment

For risk assessments, exposure information must be clearly linked to the hazard identification and dose-response relationship (or exposure-response relationship; see section 3.5.4). The toxic endpoints (e.g., cancer, reproductive effects, neurotoxic effects) can vary widely, and along with other aspects of the hazard identification and dose-response relationships, can have a major effect on how the exposure information must be collected and analyzed for a risk assessment. Some of these aspects include implications of limited versus repeated exposures, dose-rate considerations, reversibility of toxicological processes, and composition of the exposed population.

• *Limited versus Repeated Exposures.* Current carcinogen risk models often use lifetime time-weighted average doses in the dose-response relationships owing to their derivation from lifetime animal studies. This does not mean cancer cannot occur after single exposures (witness the A-bomb experience), merely that exposure information must be consonant with the source of the model. Some toxic effects, however, occur after a single or a

limited number of exposures, including acute reactions such as anesthetic effects and respiratory depression or certain developmental effects following exposure during pregnancy. For developmental effects, for example, lifetime time-weighted averages have little relevance, so different types of data must be collected, in this case usually shorter-term exposure profile data during a particular time window. Consequently, the exposure assessors and scientists who conduct monitoring studies need to collaborate with those scientists who evaluate a chemical's hazard potential to assure the development of a meaningful risk assessment. If short-term peak exposures are related to the effect, then instruments used should be able to measure short-term peak concentrations. If cumulative exposure is related to the effect, long-term average sampling strategies will probably be more appropriate.

• *Dose-Rate Effects.* The use of average daily dose values (e.g., ADD, LADD) in a dose-response relationship assumes that within some limits, increments of C times T (exposure concentration times time) that are equal in magnitude are equivalent in their potential to cause an effect, regardless of the pattern of exposure (the so-called Haber's Rule; see Atherley, 1985). In those cases where toxicity depends on the dose rate, one may need a more precise determination of the time people are exposed to various concentrations and the sequence in which these exposures occur.

• *Reversibility of Toxicological Processes.* The averaging process for daily exposure assumes that repeated dosing continues to add to the risk potential. In some cases, after cessation of exposure, toxicological processes are reversible over time. In these cases, exposure assessments must provide enough information so that the risk assessor can account for the potential influence of episodic exposures.

• *Composition of the Exposed Population.* For some substances, the type of health effect may vary as a function of age or sex. Likewise, certain behaviors (e.g., smoking), diseases (e.g., asthma), and genetic traits (e.g., glucose-6-phosphate dehydrogenase deficiency) may affect the response of a person to a chemical substance. Special population segments, such as children, may also call for a specialized approach to data collection (WHO, 1986).

3.5.2. Establishing the Sampling Strategy

If the objectives of the assessment are to be met using measurements, it is important to establish the sampling

strategy before samples are actually taken. The sampling strategy includes setting data quality objectives, developing the sampling plan and design, using spiked and blank samples, assessing background levels, developing quality assurance project plans, validating previously generated data, and selecting and validating analytical methods.

3.5.2.1. Data Quality Objectives

All measurements are subject to uncertainty because of the inherent variability in the quantities being measured (e.g., spatial and temporal variability) and analytical measurement variability introduced during the measurement process through sampling and analysis. Some sources of variability can be expressed quantitatively, but others can only be described qualitatively. The larger the variability associated with individual measurements, the lower the data quality, and the greater the probability of errors in interpretation. Data quality objectives (DQOs) describe the degree of uncertainty that an exposure assessor and other scientists and management are willing to accept.

Realistic DQOs are essential. Data of insufficient quality will have little value for problem solving, while data of quality vastly in excess of what is needed to answer the questions asked provide few, if any, additional advantages. DQOs should consider data needs, cost-effectiveness, and the capability of the measurement process. The amount of data required depends on the level of detail necessary for the purpose of the assessment. Estimates of the number of samples to be taken and measurements to be made should account for expected sample variability. Finally, DQOs help clarify study objectives by compelling the exposure assessor to establish how the data will be used before they are collected.

The exposure assessor establishes data criteria by proposing limits (based on best judgment or perhaps a pilot study) on the acceptable level of uncertainty for each conclusion to be drawn from new data, considering the resources available for the study. DQOs should include:

• A clear statement of study objectives, to include an estimation of the key study parameters, identifying the hypotheses being tested, the specific aims of the study, and how the results will be used.

• The scope of study objectives, to include the minimum size of subsamples from which separate results may be calculated, and the largest unit (area,

time period, or group of people) the data will represent.

- A description of the data to be obtained, the media to be sampled, and the capabilities of the analytical methodologies.

- The acceptable probabilities and uncertainties associated with false positive and false negative statements.

- A discussion of statistics used to summarize the data; any standards, reference values, or action levels used for comparison; and a description and rationale for any mathematical or statistical procedures used.

- An estimate of the resources needed.

3.5.2.2. Sampling Plan

The sampling plan specifies how a sample is to be selected and handled. An inadequate plan will often lead to biased, unreliable, or meaningless results. Good planning, on the other hand, makes optimal use of limited resources and is more likely to produce valid results.

The sampling design specifies the number and types of samples needed to achieve DQOs. Factors to be considered in developing the sampling design include study objectives, sources of variability (e.g., temporal and spatial heterogeneity, analytical differences) and their relative magnitudes, relative costs, and practical limitations of time, cost, and personnel.

Sampling design considers the need for temporal and spatial replication, compositing (combining several samples prior to analysis), and multiple determinations on a single sample. A statistical or environmental process model may be used to allocate sampling effort in the most efficient manner.

Data may be collected using a survey or an experimental approach. It may be desirable to stratify the sample if it is suspected that differences exist between segments of the statistical population being sampled. In such cases, the stratified sampling plan assures representative samples of the obviously different parts of the sample population while reducing variance in the sample data. The survey approach estimates population exposure based on the measured exposure of a statistically representative sample of the population. In some situations the study objectives are better served by an experimental approach; this approach involves experiments designed to determine the relationship between two or more factors, (e.g., between house construction and a particular indoor air pollutant). In the experimental approach, experimental units are selected to cover a range of situations

(e.g., different housing types), but do not reflect the frequency of those units in the population of interest. An understanding of the relationship between factors gained from an experiment can be combined with other data (e.g., distribution of housing types) to estimate exposure. An advantage of the experimental approach is that it may provide more insight into underlying mechanisms which may be important in targeting regulatory action. However, as in all experimental work, one must argue that the relationships revealed apply beyond that particular experiment.

A study may use a combination of survey and experimental techniques and involve a variety of sampling procedures. A summary of methods for measuring worker exposure is found in Lynch (1985). Smith *et al.* (1987) provide guidance for field sampling of pesticides. Relevant EPA reference documents include Survey Management Handbook, Volumes I and II (U.S. EPA, 1984b); Soil Sampling Quality Assurance User's Guide (U.S. EPA, 1990a); and A Rationale for the Assessment of Errors in the Sampling of Soils (U.S. EPA, 1989a). A detailed description of methods for enumerating and characterizing populations exposed to chemical substances is contained in Methods for Assessing Exposure to Chemical Substances, Volume 4 (U.S. EPA, 1985a).

Factors to be considered in selecting sampling locations include population density, historical sampling results, patterns of environmental contamination and environmental characteristics such as stream flow or prevailing wind direction, access to the sample site, types of samples, and health and safety requirements.

The frequency and duration of sample collection will depend on whether the risk assessor is concerned with acute or chronic exposures, how rapidly contamination patterns are changing, ways in which chemicals are released into the environment, and whether and to what degree physical conditions are expected to vary in the future.

There are many sources of information on methods for selecting sampling locations. Schweitzer and Black (1985) and Schweitzer and Santolucito (1984) give statistical methods for selecting sampling locations for ground water, soil, and hazardous wastes. A practical guide for ground-water sampling (U.S. EPA, 1985b) and a handbook for stream sampling (U.S. EPA, 1986d) are also available.

The type of sample to be taken and the physical and chemical properties of the chemical of concern usually dictate

the sampling frequency. For example, determining the concentration of a volatile chemical in surface water requires a higher sampling frequency than necessary for ground water because the chemical concentration of the surface water changes more rapidly. Sampling frequency might also depend on whether the health effects of concern result from acute or chronic exposures. More frequent sampling may be needed to determine peak exposures versus average exposure.

A preliminary survey is often used to estimate the optimum number, spacing, and sampling frequency. Factors to be considered include technical objectives, resources, program schedule, types of analyses, and the constituents to be evaluated. Shaw *et al.* (1984), Sanders and Adrian (1978), and Nelson and Ward (1981) discuss statistical techniques for determining the optimal number of samples.

Sampling duration depends on the analytical method chosen, the limits of detection, the physical and chemical properties of the analyte, chemical concentration, and knowledge of transport and transformation mechanisms. Sampling duration may be extended to ensure adequate collection of a chemical at low concentration or curtailed to prevent the breakthrough of one at high concentration. Sampling duration is directly related to selection of statistical procedures, such as trend or cross-sectional analyses.

Storage stability studies with periodic sample analysis should normally be run concurrently with the storage of treated samples. However, in certain situations where chemicals are prone to break down or have high volatility, it is advisable to run a storage stability study in advance so that proper storage and maximum time of storage can be determined prior to sample collection and storage. Unless storage stability has been previously documented, samples should be analyzed as soon as possible after collection to avoid storage stability problems. Individual programs may have specific time limits on storage, depending on the types of samples being analyzed.

3.5.2.3. Quality Assurance Samples

Sampling should be planned to ensure that the samples are not biased by the introduction of field or laboratory contaminants. If sample validity is in question, all associated analytical data will be suspect. Field- and laboratory-spiked samples and blank samples should be analyzed concurrently to validate results. The plan should provide instructions clear enough so that

each worker can collect, prepare, preserve, and analyze samples according to established protocols.

Any data not significantly greater than blank sample levels should be used with considerable caution. All values should be reported as measured by the laboratory, but with appropriate caveats on blank sample levels. The method for interpreting and using the results from blank samples depends on the analyte and should be specified in the sampling plan. The following guidance is recommended:

- For volatiles and semivolatiles, no positive sample results should be reported unless the concentration of the compound in the sample exceeds 10 times the amount in any blank for the common laboratory contaminants methylene chloride, acetone, toluene, 2-butanone, and common phthalate esters. The amount for other volatiles and semivolatiles should exceed 5 times the amount in the blank (U.S. EPA, 1988d).

- For pesticides and polychlorinated biphenyls (PCBs) no positive sample results should be reported unless the concentration in the sample exceeds 5 times that in the blank (U.S. EPA, 1988d). If a pesticide or PCB is found in a blank but not in a sample, no action is taken.

- For inorganics, no positive sample results should be reported if the results are less than 5 times the amount in any blank (U.S. EPA, 1988e).

3.5.2.4. Background Level

Background presence may be due to natural or anthropogenic sources. At some sites, it is significant and must be accounted for. The exposure assessor should try to determine local background concentrations by gathering data from nearby locations clearly unaffected by the site under investigation.

When differences between a background (control area) and a target site are to be determined experimentally, the control area must be sampled with the same detail and care as the target.

3.5.2.5. Quality Assurance and Quality Control

Quality assurance (QA) assures that a product meets defined standards of quality with a stated level of confidence. QA includes quality control.

Quality assurance begins with the establishment of DQOs and continues throughout the measurement process. Each laboratory should have a QA program and, for each study, a detailed quality assurance project plan, with language clear enough to preclude confusion and misunderstanding. The

plan should list the DQOs and fully describe the analytes, all materials, methods, and procedures used, and the responsibilities of project participants. The EPA has prepared a guidance document (U.S. EPA, 1980) that describes all these elements and provides complete guidance for plan preparation.

Quality control (QC) ensures a product or service is satisfactory, dependable, and economical. A QC program should include development and strict adherence to principles of good laboratory practice, consistent use of standard operational procedures, and carefully-designed protocols for each measurement effort. The program should ensure that errors have been statistically characterized and reduced to acceptable levels.

3.5.2.6. Quality Assurance and Quality Control for Previously Generated Data

Previously generated data may be used by the exposure assessor to fulfill current needs. Any data developed through previous studies should be validated with respect to both quality and extrapolation to current use. One should consider how long ago the data were collected and whether they are still representative. The criteria for method selection and validation should also be followed when analyzing existing data. Other points considered in data evaluation include the collection protocol, analytical methods, detection limits, laboratory performance, and sample handling.

3.5.2.7. Selection and Validation of Analytical Methods

There are several major steps in the method selection and validation process. First, the assessor establishes methods requirements. Next, existing methods are reviewed for suitability to the current application. If a new method must be developed, it is subjected to field and laboratory testing to determine its performance; these tests are then repeated by other laboratories using a round robin test. Finally, the method is revised as indicated by laboratory testing. The reader is referred to Guidance for Data Useability in Risk Assessment (U.S. EPA, 1990b) for extensive discussion of this topic.

3.5.3. Establishing the Modeling Strategy

Often the most critical element of the assessment is the estimation of pollutant concentrations at exposure points. This is usually carried out by a combination of field data and mathematical modeling results. In the absence of field data, this process often relies on the results of

mathematical models (U.S. EPA, 1986e, 1987b, 1987c, 1988f, 1991b). EPA's Science Advisory Board (U.S. EPA, 1989b) has concluded that, ideally, modeling should be linked with monitoring data in regulatory assessments, although this is not always possible (e.g., for new chemicals).

A modeling strategy has several aspects, including setting objectives, model selection, obtaining and installing the code, calibrating and running the computer model, and validation and verification. Many of these aspects are analogous to the QA/QC measures applied to measurements.

3.5.3.1. Setting the Modeling Study Objectives

The first step in using a model to estimate concentrations and exposure is to clearly define the goal of the exposure assessment and how the model can help address the questions or hypotheses of the assessment. This includes a clear statement of what information the model will help estimate, and how this estimate will be used. The approach must be consistent with known project constraints (i.e., schedule, budget, and other resources).

3.5.3.2. Characterization and Model Selection

Regardless of whether models are extensively used in an assessment and a formal modeling strategy is documented in the exposure assessment plan, when computer simulation models such as fate and transport models and exposure models are used in exposure assessments, the assessor must be aware of the performance characteristics of the model and state how the exposure assessment requirements are satisfied by the model.

If models are to be used to simulate pollutant behavior at a specific site, the site must be characterized. Site characterization for any modeling study includes examining all data on the site such as source characterization, dimensions and topography of the site, location of receptor populations, meteorology, soils, geohydrology, and ranges and distributions of chemical concentrations. For exposure models that simulate both chemical concentration and time of exposure (through behavior patterns) data on these two parameters must be evaluated.

For all models, the modeler must determine if databases are available to support the site, chemical, or population characterization, and that all parameters required by the model can be obtained or reasonable default values are

available. The assessment goals and the results of the characterization step provide the technical basis for model selection.

Criteria are provided in U.S. EPA (1987b, 1988f) for selection of surface water models and ground-water models respectively; the reader is referred to these documents for details. Similar selection criteria exist for air dispersion models (U.S. EPA, 1986e, 1987c, 1991b).

A primary consideration in selecting a model is whether to perform a screening study or to perform a detailed study. A screening study makes a preliminary evaluation of a site or a general comparison between several sites. It may be generic to a type of site (i.e., an industrial segment or a climatic region) or may pertain to a specific site for which sufficient data are not available to properly characterize the site. Screening studies can help direct data collection at the site by, for example, providing an indication of the level of detection and quantification that would be required and the distances and directions from a point of release where chemical concentrations might be expected to be highest.

The value of the screening-level analysis is that it is simple to perform and may indicate that no significant contamination problem exists. Screening-level models are frequently used to get a first approximation of the concentrations that may be present. Often these models use very conservative assumptions; that is, they tend to overpredict concentrations or exposures. If the results of a conservative screening procedure indicate that predicted concentrations or exposures are less than some predetermined no-concern level, then a more detailed analysis is probably not necessary. If the screening estimates are above that level, refinement of the assumptions or a more sophisticated model are necessary for a more realistic estimate.

Screening-level models also help the user conceptualize the physical system, identify important processes, and locate available data. The assumptions used in the preliminary analysis should represent conservative conditions, such that the predicted results overestimate potential conditions, limiting false negatives. If the limited field measurements or screening analyses indicate that a contamination problem may exist, then a detailed modeling study may be useful.

A detailed study is one in which the purpose is to make a detailed evaluation of a specific site. The approach is to use the best data available to make the best estimate of spatial and temporal

distributions of chemicals. Detailed studies typically require much more data of higher quality and models of greater sophistication.

3.5.3.3. Obtaining and Installing the Computer Code

It may be necessary to obtain and install the computer code for a model on a specific computer system. Modern computer systems and software have a variety of differences that require changes to the source code being installed. It is essential to verify that these modifications do not change the way the model works or the results it provides. If the model is already installed and supported on a computer system to which the user has access, this step is simplified greatly.

Criteria for using a model include its demonstrated acceptability and the ease with which the model can be obtained. Factors include availability of specific models and their documentation, verification, and validation. These so-called implementation criteria relate to the practical considerations of model use and may be used to further narrow the selection of technically acceptable models.

3.5.3.4. Calibrating and Running the Model

Calibration is the process of adjusting selected model parameters within an expected range until the differences between model predictions and field observations are within selected criteria. Calibration is highly recommended for all operational, deterministic models. Calibration accounts for spatial variations not represented by the model formulation; functional dependencies of parameters that are either nonquantifiable, unknown, or not included in the model algorithms; or extrapolation of laboratory measurements to field conditions. Extrapolation of laboratory measurements to field conditions requires considerable care since many unknown factors may cause differences between laboratory and field.

The final step in the modeling portion of an exposure assessment is to run the model and generate the data needed to answer the questions posed in the study objectives.

Experience and familiarity with a model can also be important. This is especially true with regard to the more complex models. Detailed models can be quite complex with a large number of input variables, outputs, and computer-related requirements. It frequently takes months to years of experience to fully comprehend all aspects of a model. Consequently, it is suggested that an

exposure assessor select a familiar model if it possesses all the selection criteria, or seek the help of experienced exposure modelers.

3.5.3.5. Model Validation

Model validation is a process by which the accuracy of model results is compared with actual data from the system being simulated. There are numerous levels of validation of an environmental fate model, for example, such as verifying that the transport and transformation concepts are appropriately represented in the mathematical equations, verifying that the computer code is free from error, testing the model against laboratory microcosms, running field tests under controlled conditions, running general field tests, and repeatedly comparing field data to the modeling results under a variety of conditions and chemicals. In essence, validation is an independent test of how well the model (with its calibrated parameters) represents the important processes occurring in the natural system. Although field and environmental conditions are often different during the validation step, parameters fixed as a result of calibration are not readjusted during validation.²³

The performance of models (their ability to represent measured data) is often dramatically influenced by site characterization and how models represent such characteristics. Characterizing complex, heterogeneous physical systems presents major challenges; modeling representations of such systems must be evaluated in light of that difficulty. In many cases, the apparent inability to model a system is caused by incomplete physical characterization of the system. In other cases the uncertainties cannot be readily apportioned between the model per se and the model's input data.

In addition to comparing model results with actual data (thus illustrating accuracy, bias, etc.), the model validation process provides information about conditions under which a simulation will be acceptable and accurate, and under what conditions it should not be used at all. All models have specific ranges of application and specific classes of chemicals for which they are appropriate. Assessors should be aware of these limitations as they develop modeling strategies.

²³ In other words, a fundamental rule is that a model should not be validated using data that were already used to generate or calibrate the model, since doing so would not be an independent test.

3.5.4. Planning an Exposure Assessment to Assess Past Exposures

In addition to the considerations discussed in sections 3.5.1 through 3.5.3, if the data are being collected to assess past exposures, such as in epidemiologic studies, they need to be representative of the past exposure conditions, which may have changed with time. The scope and level of detail of the assessment depends greatly on the availability and quality of past data. Several approaches for determining and estimating past exposure are provided in the literature (Waxweiler *et al.*, 1988; Stern *et al.*, 1986; NIOSH, 1988; Greife *et al.*, 1988; Hornung and Meinhardt, 1987).

4. Gathering and Developing Data for Exposure Assessments

The information needed to perform an exposure assessment will depend on the approach(es) selected in the planning stage (section 3). For those assessments using point-of-contact measurements, the information includes:

- Measured exposure concentrations and duration of contact.

For assessments using the scenario evaluation method for estimating exposures, the needed information includes:

- Information on chemical concentrations in media, usually desirable in the format of a concentration-time-location profile.
- Information on persons who are exposed and the duration of contact with various concentrations.

For assessments estimating exposure from dose, the information includes:

- Biomarker data.
- Pharmacokinetic relationships, including the data to support pharmacokinetic models.

If dose is to be calculated, data are needed on:

- Intake and uptake, usually in the form of rates.

Information on both natural and anthropogenic sources is usually helpful.

If the agent has natural sources, the contribution of these to environmental concentrations may be relevant. These background concentrations may be particularly important when the results of toxicity tests show a threshold or distinctly nonlinear dose-response relationship. In a situation where only relative or additional risk is considered, background levels may not be relevant.

4.1. Measurement Data for Point-of-Contact Assessments

This approach requires that chemical concentrations be measured at the interface between the person and the environment, usually through the use of personal monitors; there are currently no models to assist in the process of obtaining the concentration-time data itself. The chemical concentrations contacted in the media are measured by sampling the individual's breathing zone, food, and water. These methodologies were originally developed for occupational monitoring; they may have to be modified for exposures outside the workplace. An example of this is the development of a small pump and collector used in the TEAM studies (U.S. EPA, 1987a). In order to conduct these studies, a monitoring device had to be developed that was sufficiently small and lightweight so that it could be worn by the subjects.

The Total Human Exposure and Indoor Air Quality (U.S. EPA, 1988h) report is a useful bibliography covering models, field data, and emerging research methodologies, as well as new techniques for accurately determining exposure at nonoccupational levels.

New data for a particular exposure assessment may be developed through the use of point-of-contact methods, or data from prior studies can sometimes be used. In determining whether existing point-of-contact monitoring data can be used in another assessment, the assessor must consider the factors that

existed in the original study and that influenced the exposure levels measured. Some of these factors are proximity to sources, activities of the studied individuals, time of day, season, and weather conditions.

Point-of-contact data are valuable in evaluating overall population exposure and checking the credibility of exposure estimates generated by other methods.

4.2. Obtaining Chemical Concentration Information

The distribution of chemical concentrations is used to estimate the concentration that comes in contact with the individual(s) at any given time and place. This can be done through personal monitoring, but for a variety of reasons, in a given assessment, personal monitoring may not be feasible. Alternative methods involve measuring the concentration in the media, or modeling the concentration distribution based on source strength, media transport, and chemical transformation processes. For exposure scenario evaluation, measurements and modeling of media concentrations are often used together.

Many types of measurements can be used to help determine the distribution of chemical concentrations in media. They can be measurements of the concentrations in the media themselves, measurements of source strength, or measurements of environmental fate processes which will allow the assessor to use a model to estimate the concentration in the media at the point of contact. Table 4-1 illustrates some of the types of measurements used by exposure assessors, along with notes concerning what additional information is usually needed to use these measurements in estimating exposure or dose. For epidemiologic studies, questionnaires are often used when data are not measurable or are otherwise unavailable.

TABLE 4-1.—EXAMPLES OF TYPES OF MEASUREMENTS TO CHARACTERIZE EXPOSURE-RELATED MEDIA AND PARAMETERS.*

| Type of measurement (sample) | Usually attempts to characterize (whole) | Examples | Typical information needed to characterize exposure |
|---|--|---|--|
| A. For Use In Exposure Scenario Evaluation: | | | |
| 1. Fixed-Location Monitoring..... | Environmental medium; samples used to establish long-term indications of media quality and trends. | National Stream Quality Accounting Network (NASQAN), ^a water quality networks, air quality networks. | Population location and activities relative to monitoring locations; fate of pollutants over distance between monitoring and point of exposure; time variation of pollutant concentration at point of exposure |

TABLE 4-1.—EXAMPLES OF TYPES OF MEASUREMENTS TO CHARACTERIZE EXPOSURE-RELATED MEDIA AND PARAMETERS.^a—
Continued

| Type of measurement (sample) | Usually attempts to characterize (whole) | Examples | Typical information needed to characterize exposure |
|---|---|--|---|
| 2. Short-Term Media Monitoring..... | Environmental or ambient medium; samples used to establish a snapshot of quality of medium over relatively short time. | Special studies of environmental media, indoor air. | Population location and activities (this is critical since it must be closely matched to variations in concentrations due to short period of study); fate of pollutants between measurement point and point of exposure; time variation of pollutant concentration at point of exposure. |
| 3. Source Monitoring of Facilities..... | Release rates to the environment from sources (facilities). Often given in terms of relationships between release amounts and various operating parameters of the facilities. | Stack sampling, effluent sampling, leachate sampling from landfills, incinerator ash sampling, fugitive emissions sampling, pollution control device sampling. | Fate of pollutants from point of entry into the environment to point of exposure; population location and activities; time variation of release. |
| 4. Food Samples (also see #11 below). | Concentrations of contaminants in food supply. | FDA Total Diet Study Program, ^c market basket studies, shelf studies, cooked-food diet sampling. | Dietary habits of various age, sex, or cultural groups. Relationship between food items sampled and groups (geographic, ethnic, demographic) studied. Relationships between concentrations in uncooked versus prepared food. |
| 5. Drinking Water Samples..... | Concentrations of pollutants in drinking water supply. | Ground Water Supply Survey, ^d Community Water Supply Survey, ^e tap water. | Fate and distribution of pollutants from point of sample to point of consumption. Population served by specific facilities and consumption rates. For exposure due to other uses (e.g., cooking and showering), need to know activity patterns and volatilization rates. |
| 6. Consumer Products..... | Concentration levels of various products. | Shelf surveys, e.g., solvent concentration in household cleaners ^f . | Establish use patterns and/or market share of particular products, individual exposure at various usage levels, extent of passive exposure. |
| 7. Breathing Zone Measurements..... | Exposure to airborne chemicals..... | Industrial hygiene studies, occupational surveys, indoor air studies.. | Location, activities, and time spent relative to monitoring locations. Protective measures/avoidance. |
| 8. Microenvironmental Studies..... | Ambient medium in a defined area, e.g., kitchen, automobile interior, office setting, parking lot. | Special studies of indoor air, house dust, contaminated surfaces, radon measurements, office building studies. | Activities of study populations relative to monitoring locations and time exposed. |
| 9. Surface Soil Sample..... | Degree of contamination of soil available for contact. | Soil samples at contaminated sites..... | Fate of pollution on/in soil; activities of potentially exposed populations. |
| 10. Soil Core..... | Soil including pollution available for ground-water contamination; can be an indication of quality and trends over time. | Soil sampling at hazardous waste sites..... | Fate of substance in soil; speciation and bioavailability, contact and ingestion rates as a function of activity patterns and age. |
| 11. Fish Tissue..... | Extent of contamination of edible fish tissue. | National Shellfish Survey ^g | Relationship of samples to food supply for individuals or population of interest; consumption habits; preparation habits. |
| B. For Use in Point-of-Contact Measurement | | | |
| 1. Air Pump/Particulates and Vapors.... | Exposure of an individual or population via the air medium. | TEAM study, ^h carbon monoxide study, ⁱ Breathing zone sampling in industrial settings. | Direct measurement of individual exposure during time sampled. In order to characterize exposure to population, relationships between individuals and the population must be established as well as relationships between times sampled and other times for the same individuals, and relationships between sampled individuals and other populations. In order to make these links, activities of the sampled individuals compared to populations characterized are needed in some detail. |
| 2. Passive Vapor Sampling..... | Same as above..... | Same as above..... | Same as above. |
| 3. Split Sample Food/Split Sample Drinking Water..... | Exposures of an individual or population via ingestion.. | TEAM study ^j | Same as above. |
| 4. Skin Patch Samples..... | Dermal exposure of an individual or population. | Pesticide Applicator Survey ^k | (1) Same as above. (2) Skin penetration. |

TABLE 4-1.—EXAMPLES OF TYPES OF MEASUREMENTS TO CHARACTERIZE EXPOSURE-RELATED MEDIA AND PARAMETERS.^a—Continued

| Type of measurement (sample) | Usually attempts to characterize (whole) | Examples | Typical information needed to characterize exposure |
|--|--|---|---|
| C. For Use in Exposure Estimation from Reconstructed Dose: | | | |
| 1. Breath..... | Total internal dose for individuals or population (usually indicative of relatively recent exposures). | Measurement of volatile organic chemicals (VOCs), alcohol. (Usually limited to volatile compounds). | (1) Relationship between individuals and population; exposure history (i.e., steady-state or not) pharmacokinetics (chemical half-life), possible storage reservoirs within the body. (2) Relationship between breath content and body burden. |
| 2. Blood..... | Total internal dose for individuals or population (may be indicative of either relatively recent exposures to fat-soluble organics or long term body burden for metals). | Lead studies, pesticides, heavy metals (usually best for soluble compounds, although blood lipid analysis may reveal lipophilic compounds). | (1) Same as above. (2) Relationship between blood content and body burden. |
| 3. Adipose..... | Total internal dose for individuals or population (usually indicative of long-term averages for fat-soluble organics). | NHATS, ¹ dioxin studies, PCBs (usually limited to lipophilic compounds). | (1) Same as above. (2) Relationship between adipose content and body burden. |
| 4. Nails, Hair..... | Total internal dose for individuals or population (usually indicative of past exposure in weeks to months range; can sometimes be used to evaluate exposure patterns). | Heavy metal studies (usually limited to metals). | (1) Same as above. (2) Relationship between nails, hair content and body burden. |
| 5. Urine..... | Total internal dose for individuals or population (usually indicative of elimination rates); time from exposure to appearance in urine may vary, depending on chemical. | Studies of tetrachloroethylene ^m and trichloroethylene ⁿ . | (1) Same as above. (2) Relationship between urine content and body burden. |

^a To characterize dose, intake or uptake information is also needed (see Section 2). ^b U.S. EPA (1985c).

^c U.S. EPA (1986f). ^d U.S. EPA (1985c). ^e U.S. EPA (1985d). ^f U.S. EPA (1985a).

^g U.S. EPA (1986f). ^h U.S. EPA (1987a). ⁱ U.S. EPA (1987a). ^j U.S. EPA (1987a).

^k U.S. EPA (1987d). ^l U.S. EPA (1986g). ^m U.S. EPA (1986h). ⁿ U.S. EPA (1987e).

4.2.1. Concentration Measurements in Environmental Media

Measured concentration data can be generated for the exposure assessment by a new field study, or by evaluating concentration data from completed field study results and using them to estimate concentrations. Media measurements taken close to the point of contact with the individual(s) in space and time are preferable to measurements far removed geographically or temporally. As the distance from the point of contact increases, the certainty of the data at the point of contact usually decreases, and the obligation for the assessor to show relevance of the data to the assessment at hand becomes greater. For example, an outdoor air measurement, no matter how close it is taken to the point of contact, cannot by itself adequately characterize indoor exposure.

Concentrations can vary considerably from place to place, seasonally, and over time due to changing emission and use patterns. This needs to be considered not only when designing studies to collect new data, but especially when evaluating the applicability of existing measurements as estimates of exposure concentrations in a new assessment. It is a particular concern when the measurement data

will be used to extrapolate to long time periods such as a lifetime. Transport and dispersion models are frequently used to help answer these questions.

The exposure assessor is likely to encounter several different types of measurements. One type of measurement used for general indications and trends of concentrations is outdoor fixed-location monitoring. This measurement is used by EPA and other groups to provide a record of pollutant concentration at one place over time. Nationwide air and water monitoring programs have been established so that baseline values in these environmental media can be documented. Although it is not practical to set up a national monitoring network to gather data for a particular exposure assessment, the data from existing networks can be evaluated for relevance to an exposure assessment. These data are usually somewhat removed, and often far removed, from the point of contact. Adapting data from previous studies usually presents challenges similar to those encountered when using network data. If new data are needed for the assessment, studies measuring specific chemicals at specific locations and times can be conducted.

Contaminant concentrations in indoor air can vary as much or more than those in outdoor air. Consequently, indoor

exposure is best represented by measurements taken at the point of contact. However, because pollutants such as carbon monoxide can exhibit substantial indoor penetration, indoor exposure estimates should consider potential outdoor as well as indoor sources of the contaminant(s) under evaluation.

Food and drinking water measurements can also be made. General characterization of these media, such as market basket studies (where representative diets are characterized), shelf studies (where foodstuffs are taken from store shelves and analyzed), or drinking water quality surveys, are usually far removed from the point of contact for an individual, but may be useful in evaluating exposure concentrations over a large population. Closer to the point of contact would be measurements of tap water or foodstuffs in a home, and how they are used. In evaluating the relevance of data from previous studies, variations in the distribution systems must be considered as well as the space-time proximity.

Consumer or industrial product analysis is sometimes done to characterize the concentrations of chemicals in products. The formulation of products can change substantially over time, similar products do not

necessarily have similar formulations, and regional differences in product formulation can also occur. These should be considered when determining relevance of extant data and when setting up sampling plans to gather new data.

Another type of concentration measurement is the microenvironmental measurement. Rather than using measurements to characterize the entire medium, this approach defines specific zones in which the concentration in the medium of interest is thought to be relatively homogenous, then characterizes the concentration in that zone. Typical microenvironments include the home or parts of the home, office, automobile, or other indoor settings. Microenvironments can also be divided into time segments (e.g., kitchen-day, kitchen-night). This approach can produce measurements that are closely linked with the point of contact both in location and time, especially when new data are generated for a particular exposure assessment. The more specific the microenvironment, however, the greater the burden on the exposure assessor to establish that the measurements are representative of the population of interest. Adapting existing data bases in this area to a particular exposure assessment requires the usual evaluation discussed throughout this section.

The concentration measurement that provides the closest link to the actual point of contact uses personal monitoring, which is discussed in section 4.3.

4.2.2. Use of Models for Concentration Estimation

If concentrations in the media cannot be measured, they can frequently be estimated indirectly by using related measurements and models. To accomplish this, source and fate information are usually needed. Source characterization data are used as input to transport and transformation models (environmental fate models). These models use a combination of general relationships and situation-specific information to estimate concentrations. In exposure assessments, mathematical models are used extensively to calculate environmental fate and transport, concentrations of chemicals in different environmental media, the distribution of concentrations over space and time, indoor air levels of chemicals, concentrations in foods, etc. In determining the relevance of this type of model for estimating concentrations, the same rules apply as for the measurements of concentrations discussed in the previous section. When

concentrations in the media are available, models can be used to interpolate concentrations between measurements. Because models rely on indirect measurements and data remote from the point of contact, statistically valid analytical measurements take precedence when discrepancies arise. When it is necessary to estimate contributions of individual sources to overall concentrations, models are commonly used.

Source characterization measurements usually determine the rate of release of chemicals into the environment from a point of emission such as an incinerator, landfill, industrial facility, or other source. Often these measurements are used to estimate emission factors, or a relationship between releases and facility operations. Since emission factors are usually averages over time, the assessor must determine whether given emission factors from previous work are relevant to the time specificity and source type needed for the exposure assessment. Generally, emission factors are more useful for long-term average emission calculations, and become less useful when applied to intermittent or short-term exposures.

Environmental fate measurements can be either field measurements (field degradation studies, for example) or laboratory measurements (partition coefficients, hydrolysis, or biodegradation rates, etc.). Approximations for these can sometimes also be calculated (Lyman *et al.*, 1982).

Environmental fate models calculate estimated concentrations in media that in turn are linked to the concentrations at the point of contact. The use of estimated properties or rates adds to the uncertainty in the exposure concentration estimate. When assessors use these methods to estimate exposures, uncertainties attributable to the model and the validation status of the model must be clearly discussed in the uncertainty section (see discussion in section 6).

4.2.3. Selection of Models for Environmental Concentrations

Selection of an appropriate model is essential for successful simulation of chemical concentrations. In most cases assessors will be able to choose between several models, any of which could be used to estimate environmental concentrations. There is no right model; there may not even be a best model. There are, however, several factors that will help in selecting an appropriate model for the study. The assessor should consider the objectives of the study, the

technical capabilities of the models, how readily the models can be obtained, and how difficult each is to use (U.S. EPA, 1987b, 1988f, 1991b).

The primary consideration in selecting a model is the objective of the exposure assessment. The associated schedule, budget, and other resource constraints will also affect model selection options. Models are available to support both screening-level and detailed, site-specific studies. Screening models can provide quick, easy, and cost-effective estimates of environmental concentrations. They can support data collection efforts at the site by indicating the required level of detection and quantification and the locations where chemical concentrations are expected to be highest. They are also used to interpolate chemical concentrations between measurements. Where study objectives require the best estimates of spatial and temporal distributions of chemicals, more sophisticated models are available. These models require more and better data to characterize the site, and therefore site-specific data may be needed in order to use them.

The technical capabilities of a model are expressed in its ability to simulate site-specific contaminant transport and transformation processes. The model must be able to simulate the relevant processes occurring within the specified environmental setting. It must adequately represent the physical setting (e.g., the geometric configuration of hydrogeological systems, river widths and depths, soil profiles, meteorological patterns, etc.) and the chemical transformation processes. Field data from the area where doses are to be estimated are necessary to define the input parameters required to use the models. In cases in which these data are not available, parameter values representative of field conditions should be used as defaults. Assumptions of homogeneity and simplification of site geometry may allow use of simpler models.

In addition, it is important to thoroughly understand the performance characteristics of the model used. This is especially true with regard to the more complex models. Detailed models can be quite complex with a large number of input variables, outputs, and computer-related requirements.

4.3. Estimating Duration of Contact

As discussed in section 2, the duration of contact is linked to a particular exposure concentration to estimate exposure. Depending on the purpose of the assessment and the confidence

needed in the accuracy of the final estimate, several approaches for obtaining estimates of duration of contact can be used.

Ideally, the time that the individual is in contact with a chemical would be observed and recorded, and linked to the concentrations of the chemical during those time segments. Although it is sometimes feasible to do this (by point-of-contact measurement, see section 4.1.), many times it is not. In those cases, as in concentration characterization, the duration of contact must be estimated by using data that may be somewhat removed from the actual point of contact, and assumptions must be made as to the relevance of the data.

It is common for the estimate of duration of contact at a given concentration to be the single largest source of uncertainty in an exposure assessment.²⁴ The exposure assessor, in developing or selecting data for making estimates of duration of contact, must often assume that the available data adequately represent exposure.

4.3.1. Observation and Survey Data

Observation and recording of activities, including location-time data, are likely to be the types of data collection closest to the point of contact. This can be done by an observer or the person(s) being evaluated for exposure, and can be done for an individual, a population segment, or a population. The usual method for obtaining these data for population segments or populations is survey questionnaires. Surveys can be performed as part of the data-gathering efforts of the exposure assessment, or existing survey data can be used if appropriate.

There are several approaches used in activity surveys, including diaries, respondent or third-party estimates, momentary sampling, videomonitoring, and behavioral meters. The diary approach, probably the most powerful method for developing activity patterns, provides a sequential record of a person's activities during a specified time period. Typical time-diary studies are done across a day or a week. Diary forms are designed to have respondents report all their activities and locations for that period. Carefully designed forms are especially important for diary studies to ensure that data reported by each individual are comparable. The

resulting time budget is a sample of activity that can be used to characterize an individual's behavior, activities, or other features during the observation period. Sequential activity monitoring forms the basis of an activity profile.

Several studies have demonstrated the reliability of the diary method in terms of its ability to produce similar estimates. One study (Robinson, 1977) found a 0.85 correlation between diary estimates using the yesterday and tomorrow approaches and a 0.86 correlation between overall estimates. However, no definitive study has established the validity of time-diary data.

Questionnaires are used for direct questions to collect the basic data needed. Questionnaire design is a complex and subtle process, and should only be attempted with the help of professionals well-versed in survey techniques. A useful set of guidelines is provided in the Survey Management Handbook (U.S. EPA, 1984b).

Respondent estimates are the least expensive and most commonly used questionnaire alternative. Respondents are simply asked to estimate the time they spend at a particular activity. Basically, the question is, how many hours did you spend doing this activity (or in this location or using a certain product)? In exposure studies, respondents may be asked how often they use a chemical or product of interest or perform a specific activity. These data are less precise and likely to be somewhat less accurate than a carefully conducted diary approach.

At a less demanding level, respondents may be asked whether their homes contain items of interest (pesticides, etc.). Since this information is not time-of-activity data, it is more useful in characterizing whether the chemical of interest is present. It does, however, give the assessor some indication that use may occur.

Estimates from other respondents (third parties) use essentially the same approach, except that other informants respond for that individual. Here the question is how many hours per week does the target person spend doing this activity?

Momentary (beeper) sampling or telephone-coincidental techniques ask respondents to give only brief reports for a specific moment — usually the moment the respondent's home telephone or beeper sounds. This approach is limited to times when people are at home or able to carry beepers with them.

Methods that use behavioral meter or monitoring devices are probably the

most expensive approach, since they require the use or development of equipment, respondent agreement to use such equipment, and technical help to install or adjust the equipment.

The Exposure Factors Handbook (U.S. EPA, 1989c) contains a summary of published data on activity patterns along with citations. Note that the summary data and the mean values cited are for the data sets included in the Handbook, and may or may not be appropriate for any given assessment.

4.3.2. Developing Other Estimates of Duration of Contact

When activity surveys cannot be used to estimate duration of contact, it may be estimated from more indirect data. This is the least expensive and most commonly used approach for generating estimates of duration of contact; it is also the least accurate. But for some situations, such as assessing the risk to new chemicals being introduced into the marketplace or in assessing future possible uses of contaminated sites, it is the only approach that can be used.

In general, the methods used to make these estimates fall into two areas: (1) those where the time it takes to perform an activity is itself estimated, and (2) those where an average duration of contact is estimated by combining the time of a unit activity with data on the use of a product or commodity.

Methods that try to estimate the time of a particular activity include general time-and-motion studies that might be adapted for use in an exposure assessment, general marketing data which include time of use, anecdotal information, personal experience, and assumptions about the amount of time it takes to perform an activity.

Methods that estimate average times for activities from product or commodity use usually interpret data on product sales or marketing surveys, water use, general food sales, etc. Information on use can be combined with an estimate of the number of persons using the product to estimate the average consumption of the product. If an estimate of the duration of contact with one unit (product, gallon of water, etc.) can be made, this can then be multiplied by the average number of units consumed to arrive at an estimate of average duration of contact for each individual.

Duration-of-contact estimates based on data collected close to the actual point of contact are preferable to those based on indirect measurements; both of these are preferred to estimates based on assumptions alone. This hierarchy is

²⁴ Conversely, it may be stated that the largest source of uncertainty is the concentration for a given exposure duration. Often, however, the concentration in the media is known with more certainty than the activities of the individual(s) exposed.

useful in both the data-gathering process and uncertainty analysis.

4.4. Obtaining Data on Body Burden or Biomarkers

Body burden or biomarker data denote the presence of the chemical inside the body of exposed individuals. In a reconstructive assessment, these data, in conjunction with other environmental monitoring data, may provide a better estimate of exposure.

A biomarker of exposure has been defined as an exogenous substance or its metabolite or the product of an interaction between a xenobiotic agent and some target molecule or cell that is measured in a compartment within an organism (NRC, 1989a). Examples of simple direct biomarkers include the chemical itself in body fluid, tissue, or breath. Measurable changes in the physiology of the organism can also constitute markers of exposure. Examples include changes in a particular enzyme synthesis and activity. The interaction of xenobiotic compounds with physiological receptors can produce measurable complexes which also serve as exposure biomarkers. Other markers of exposure include xenobiotic species adducted to protein or DNA, as well as a variety of genotoxicity endpoints, such as micronuclei and mutation. Some biomarkers are specific to a given chemical while others may result from exposure to numerous individual or classes of compounds.

Biomarker data alone do not usually constitute a complete exposure assessment, since these data must be associated with external exposures. However, biomarker data complement other environmental monitoring data and modeling activities in estimating exposure.

4.5. Obtaining Data for Pharmacokinetic Relationships

To estimate dose from exposure, one must understand the pharmacokinetics of the chemical of interest. This is particularly true when comparing risks resulting from different exposure situations. Two widely different exposure profiles for the same chemical may have the same integrated exposure (area under the curve), but may not result in the same internal dose due to variations in disposition of the chemical under the two profiles. For example, enzymes that normally could metabolize low concentrations of a chemical may be saturated when the chemical is absorbed in high doses, resulting in a higher dose delivered to target tissues. The result of these two exposures may even be a different toxicological

endpoint, if pharmacokinetic sensitivities are severe enough.

An iterative approach, including both monitoring and modeling, is necessary for proper data generation and analysis. Data collection includes monitoring of environmental media, personal exposure, biomarkers, and pharmacokinetic data. It may involve monitoring for the chemical, metabolites, or the target biomarker. Monitoring activities must be designed to yield data that are useful for model formulation and validation. Modeling activities must be designed to simulate processes that can be monitored with available techniques. The pharmacokinetic data necessary for model development are usually obtained from laboratory studies with animals. The data are generated in experiments designed to estimate such model parameters as the time course of the process, absorption, distribution, metabolism, and elimination of the chemical. These data, and the pharmacokinetic models developed from them, are necessary to interpret field biomarker data.

4.6. Obtaining Data on Intake and Uptake

The Exposure Factors Handbook (U.S. EPA, 1989c) presents statistical data on many of the factors used in assessing exposure, including intake rates, and provides citations for the primary references. Some of these data were developed by researchers using approaches discussed in Section 4.2.1 (for example, Pao *et al.* (1982) used the diary approach in a study of food consumption). Intake factors included are:

- Drinking water consumption rates;
- Consumption rates for homegrown fruits, vegetables, beef, and dairy products;
- Consumption rates for recreationally caught fish and shellfish;
- Incidental soil ingestion rates;
- Pulmonary ventilation rates; and
- Surface areas of various parts of the human body.

The Exposure Factors Handbook is being updated to encompass additional factors and to include new research data on the factors currently covered. It also provides default parameter values that can be used when site-specific data are not available. Obviously, general default values should not be used in place of known, valid data that are more relevant to the assessment being done.

5. Using Data to Determine or Estimate Exposure and Dose

Collecting and assembling data, as discussed in the previous section, is

often an iterative process. Once the data are assembled, inferences can be made about exposure concentrations, times of contact, and exposures to persons other than those for whom data are available. During this process, there usually will be gaps in information that can be filled by making a series of assumptions. If these gaps are in areas critical to the accuracy of the assessment, further data collection may be necessary.

Once an acceptable data set²⁵ is available, the assessor can calculate exposure or dose. Depending on the method used to quantify exposure, there are several ways to calculate exposure and dose. This chapter will discuss making inferences (section 5.1), assumptions (section 5.2), and calculations (section 5.3).

5.1. Use of Data in Making Inferences for Exposure Assessments

Inferences are generalizations that go beyond the information contained in a data set. The credibility of an inference is often related to the method used to make it and the supporting data. Anecdotal information is the source of one type of inference, but the assessor has only limited knowledge of how well one anecdote represents the realm of possibilities, so anecdotes as a basis for inference should be used only with considerable caution. Professional judgment is usually preferred to anecdotes assuming that it is based on experience representing a variety of conditions. Statistical inferences also are generalizations that go beyond the data set. They may take any of several forms (see any statistics textbook for examples), but unlike those described above, a statistical inference will usually include a measure of how certain it is. For that reason, statistical inferences are often preferable to anecdotes or professional judgment provided the data are shown to be relevant and adequate.

As discussed above, the primary use of data from exposure-related measurements is to infer more general information about exposure concentrations, contact times, exposures, or doses. For example, measured concentrations in a medium can be used to infer what the concentration might be at the point of contact, which may not have been measured directly. Point-of-contact measurement data for one group of people may be used to infer the

²⁵ An acceptable data set is one that is consistent with the scope, depth, and purpose of the assessment, and is both relevant and adequate as discussed in Section 5.1.

exposures of a similar group, or to infer what the exposures of the same group might be at different times.

In all cases, the exposure assessor must have a clear picture of the relationship between the data at hand and what is being characterized by inference. For example, surface water concentration data alone, although essential for characterizing the medium itself, are not necessarily useful for inferring exposures from surface water, since other information is necessary to complete the link between surface water and exposure. But the medium's characteristics (over space and time) can be used, along with the location and activities of individuals or populations, to estimate exposures. Samples taken for exposure assessment may be designed to characterize different aspects (or components) of exposure. For example, a sample taken as a point-of-contact exposure measurement is qualitatively different from a sample of an environmental medium or body fluid.

Different measurements taken under the general category of exposure-related measurements cannot necessarily all be used in the same way. The exposure assessor must explain the relationship between the sample data and the inferences or conclusions being drawn from them. In order to do this, data relevance, adequacy, and uncertainty must be evaluated.

5.1.1. Relevance of Data for the Intended Exposure Assessment

When making inferences from a data set, the assessor must establish a clear link between the data and the inference. When statistically based sampling is used to generate data, relevance is a function of how well the sample represents the medium or parameter being characterized. When planning data collection for an exposure assessment, the assessor can use information about the inferences that will be made to select the best measurement techniques. In many cases data are also available from earlier studies. The assessor must determine (and state) how relevant the available data are to the current assessment; this is usually easier for new data than for previously collected information.

5.1.2. Adequacy of Data for the Intended Assessment

Table 4-1 in the previous section illustrated how different types of measurements may be used to characterize a variety of concentrations, contact times, and intake or uptake parameters. Nevertheless, just because certain types of measurements generally can be used to make certain inferences,

there is no guarantee that this can always be done. The adequacy of the data to make inferences is determined by evaluating the amount of data available and the accuracy of the data. Evaluation of the adequacy of data will ensure that the exposure assessment is conducted with data of known quality.

In general, inadequate data should not be used, but when it can be demonstrated that the inadequacies do not affect results, it is sometimes possible to use such data. In these cases, an explanation should be given as to why the inadequacies do not invalidate conclusions drawn from them. In some cases, even seriously inadequate or only partially relevant data may be the only data available, and some information may be gained from their consideration. It may not be possible to discard these data entirely unless better data are available. If these data are used, the uncertainties and resulting limitations of the inferences should be clearly stated. If data are rejected for use in favor of better data, the rationale for rejection should be clearly stated and the basis for retaining the selected data should be documented. QA/QC considerations are paramount in considerations of which data to keep and which to discard.

Outliers should not be eliminated from data analysis procedures unless it can be shown that an error has occurred in the sample collection or analysis phases of the study. Very often outliers provide much information to the study evaluators. Statistical tests such as the Dixon test exist to determine the presence of outliers (Dixon, 1950, 1951, 1953, 1960).

5.1.2.1. Evaluation of Analytical Methods

Analytical methods are evaluated in order to develop a data set based on validated analytical methods and appropriate QA/QC procedures. In a larger sense, analytical methods can be evaluated to determine the strength of the inferences made from them, and in turn, the confidence in the exposure assessment itself. Consequently, it is just as important to evaluate analytical methods used for data generated under another study as it is to evaluate the methods used to generate new data.

The EPA has established extensive QA/QC procedures (U.S. EPA, 1980). Before measurement data are used in the assessment, they should be evaluated against these procedures and the results stated. If this is not possible, the assessor must consider what effect the unknown quality of the data has on the confidence placed on the inferences and conclusions of the assessment.

5.1.2.2. Evaluation of Analytical Data Reports

An assortment of qualifiers is often used in data validation. These qualifiers are used to indicate QA/QC problems such as uncertain chemical identity or difficulty in determining chemical concentration. Qualifiers usually appear on a laboratory analysis report as a letter of the alphabet next to the analytical result. Some examples of data qualifiers, applied by U.S. EPA regional reviewers for Contract Laboratory Program (CLP) data include:

B (blank)—the analyte was found in blank samples;

J (judgment)—the compound is present but the concentration value is estimated;

U (undetected)—the chemical was analyzed for but not detected at the detection limit;

R (reject)—the quality control indicates that the data are unusable.

The exposure assessor may contact the laboratory or the person who validated the data if the definitions of the qualifiers are unclear. Since the exposure assessment is only as good as the data supporting it, it is essential to interpret these types of data properly to avoid misrepresenting the data set or biasing the results.

5.1.2.2.1. Evaluation of Censored Data Sets

Exposure assessors commonly encounter data sets containing values that are lower than limits deemed reliable enough to report as numerical values (i.e., quantification limits [QL]). These data points are often reported as nondetected and are referred to as censored. The level of censoring is based on the confidence with which the analytical signal can be discerned from the noise. While the concentration may be highly uncertain for substances below the reporting limit, it does not necessarily mean that the concentration is zero. As a result the exposure assessor is often faced with the problem of having to estimate values for the censored data. Although a variety of techniques have been described in the literature, no one procedure is appropriate under all exposure assessment circumstances; thus, the exposure assessor will need to decide on the appropriate method for a given situation. Techniques for analyzing censored data sets can be grouped into three classes (Helsel, 1990): Simple substitution methods, distributional methods, and robust methods.

Simple substitution methods, the most commonly encountered technique,

involve substitution of a single value as a proxy for each nondetected data value. Frequently used values have included zero, the QL, QL/2, and $QL/\sqrt{2}$.²⁶

In the worst-case approach, all nondetects are assigned the value of the QL, which is the lowest level at which a chemical may be accurately and reproducibly quantitated. This approach biases the mean upward. On the other hand, assigning all nondetects the value of zero biases the mean downward. The degree to which the results are biased will depend on the relative number of detects and nondetects in the data set and the difference between the reporting limit and the measured values above it.

In an effort to minimize the obvious bias introduced by choosing either zero or the QL as the proxy, two other values have been suggested, i.e., QL/2 and $QL/\sqrt{2}$. Assigning all nondetects as QL/2 (Nehls and Akland, 1973) assumes that all values between the QL and zero are equally likely; therefore, an average value would result if many samples in this range were measured. Hornung and Reed (1990) discuss the merits of assigning a value of $QL/\sqrt{2}$ for nondetects rather than QL/2 if the data are not highly skewed (geometric standard deviation < 3.0); otherwise they suggest using QL/2.

Based on reported analyses of simulated data sets that have been censored to varying degrees (Gleit, 1985; Hornung and Reed, 1990; Gilliom and Helsel, 1988; Helsel and Cohn, 1988), it can be concluded that substitution with QL/2 or $QL/\sqrt{2}$ for nondetects will be adequate for most exposure assessments provided that the nondetects do not exceed 10% to 15% of the data set or the data are not highly skewed. When such situations arise, the additional effort to make use of more sophisticated methods as discussed below is recommended. On the other hand, the exposure assessor may encounter situations in which the purpose of the assessment is only to serve as a screen to determine if a health concern has been triggered or if a more detailed study is required, then assigning the value of the QL to all nondetect values can be justified. If, when using this conservative approach, no concern is indicated, then no further effort is warranted. This method cannot be used to prove an unacceptable risk exists, and any exposure values calculated using this method should be caveated and clearly presented as "less than" estimates.

Distributional methods, unlike simple substitution methods, make use of the data above the reporting limit to extrapolate below it. One such technique is the use of log-probit analysis. This approach assumes a lognormal probability distribution of the data. In the probit analysis, the detected values are plotted on the scale and the nondetectable values are treated as unknowns, but their percentages are accounted for. The geometric mean is determined from the 50th percentile. As discussed by Travis and Land (1990), limitations of the method have been pointed out, but it is less biased and more accurate than the frequently used substitution methods. This method is useful in situations where the data set contains enough data points above the reporting limit to define the distribution function for the exposure values (i.e., lognormal) with an acceptable degree of confidence. The treatment of the nondetectable samples is then straightforward, assuming the nondetectable samples follow the same distribution as those above the reporting limit.

Robust methods have an advantage over distributional methods in so far as they do not assume that the data above the reporting limit follow a defined distribution (e.g., lognormal) and they are not subject to transformation bias in going from logarithms back to original units. Gilliom and Helsel (1988) have described the application of several approaches to data sets of varying sample size and degree of censoring. These methods involve somewhat more data manipulation than the log-probit method discussed earlier in this Section, but they may be more appropriate to use when the observed data do not fit a lognormal distribution. Generally, these methods only assume a distributional form for the censored values rather than the entire data set, and extrapolation from the uncensored data is done by using regression techniques.

In summary, when dealing with censored data sets, a variety of approaches can be used by the exposure assessor. Selecting the appropriate method requires consideration of the degree of censoring, the goals of the exposure assessment, and the accuracy required. Regardless of the method selected, the assessor should explain the choice made and how it may affect the summary statistics. Presenting only the summary statistics developed by one of these methods should be avoided. It is always useful to include a characterization of the data by the percentage of detects and nondetects in language such as "in 37% of the samples

the chemical was detected above the quantitation limit; of these 37%, the mean concentration was 47 ppm, the standard deviation was 5 ppm, etc."

5.1.2.2.2. Blanks and Recovery

Blank samples should be compared with the results from their corresponding samples. When comparing blank samples to the data set, the following rules should be followed (outlined in section 3):

- Sample results should be reported only if the concentrations in the sample exceed 10 times the maximum amount detected in the blank for common laboratory contaminants. Common laboratory contaminants include: acetone, 2-butanone (or methyl ethyl ketone), methylene chloride, toluene, and phthalate esters.
- Sample results should be reported only if the concentrations in the sample exceed 5 times the maximum amount detected in a blank for chemicals that are not common laboratory contaminants.

In general, for other types of qualifiers, the exposure assessor may include the data with qualifiers if they indicate that a chemical's concentration is uncertain, but its identity is known. If possible, the uncertainties associated with the qualifier should be noted.

Chemical spike samples that show abnormally high or low recoveries may result in qualified or rejected data. Assessors should not use rejected data; these samples should be treated as if the samples were not taken, since the resulting data are unreliable. Typically, analytical results are reported from the laboratory unadjusted for recovery, with the recovery percentage also reported. The assessor must determine how these data should be used to calculate exposures. If recovery is near 100%, concentrations are not normally adjusted (although the implicit assumption of 100% recovery should be mentioned in the uncertainty section). However, the assessor may need to adjust the data to account for consistent, but abnormally high or low recovery. The rationale for such adjustments should be clearly explained; individual program offices may develop guidance on the acceptable percent recovery limits before data adjustment or rejection is necessary.

5.1.3. Combining Measurement Data Sets from Various Studies

Combining data from several sources into a single data set must be done cautiously. The circumstances under which each set of data was collected (target population, sampling design,

²⁶ Some programs, such as the U.S. Department of Energy (1991), do not recommend this procedure at all, if it can be avoided.

location, time, etc.) and quality (precision, accuracy, representativeness, completeness, etc.) must be evaluated. Combining summary statistics of the data sets (e.g., means) into a single set may be more appropriate than combining the original values. Statistical methods are available for combining results from individual statistical tests. For example, it is sometimes possible to use several studies with marginally significant results to justify an overall conclusion of a statistically significant effect.

The best way to report data is to provide sufficient background information to explain what was done and why, including clear documentation of the source of the data and including any references.

5.1.4. Combining Measurement Data and Modeling Results

Combining model results with measurement data must be done with an understanding of how this affects the resulting inferences, conclusions, or exposure estimates. If model results are used in lieu of additional data points, they must be evaluated for accuracy and representativeness as if they were additional data, and the uncertainty associated with this data combination must be described fully, as discussed in section 5.1.3.

On the other hand, measurement data are often used within the context of the model itself, as calibration and verification points, or as a check on the plausibility of the model results. If measurements are used within the model, the uncertainty in these measurements affects the uncertainty of the model results, and should be discussed as part of the uncertainty of the model results.

5.2. Dealing With Data Gaps

Even after supplementing existing measurement data with model results, there are likely to be gaps in the information base to be used for calculating exposures and doses. There are several ways to deal with data gaps. None are entirely satisfactory in all situations, but they can be useful depending on the purposes of the assessment and the resources available. The following options can be used singly or in combination:

- New data can be collected. This may be beyond the reach of the assessor's resources, but promises the best chance for getting an accurate answer. It is most likely to be a useful option if the new data are quick and easy to obtain.
- The scope of the assessment can be narrowed. This is possible if the data

gaps are in one pathway or exposure route, and the others have adequate data. It may be a viable option if the pathway or route has values below certain bounds, and those bounds are small relative to the other pathways being evaluated. This is unlikely to be satisfactory if the part of the assessment deleted is an important exposure pathway or route and must be evaluated.

- Conservative²⁷ assumptions can be used. This option is useful for establishing bounds on exposure parameters, but limits how the resulting exposures and doses can be expressed. For example, if one were to assume that a person stays at home 24 hours a day as a conservative assumption, and used this value in calculations, the resulting contact time would have to be expressed as an upper limit rather than a best estimate. When making conservative assumptions, the assessor must be aware of (and explain) how many of these are made in the assessment, and how they influence the final conclusions of the assessment.²⁸

- Models may be used in some cases, not only to estimate values for concentrations or exposures, but also to check on how conservative certain assumptions are.

- Surrogate data may also be used in some cases. For example, for pesticide applicators' exposure to pesticides, the EPA Office of Pesticide Programs (U.S. EPA, 1987d) assumes that the general parameters of application (such as the human activity that leads to exposure) are more important than the properties of the pesticide in determining the level of exposure.²⁹ This option assumes that surrogate data are available and that the differences between the chemical and the surrogate are small. If a clear relationship can be determined between the concentration of a chemical and the surrogate (usually termed an indicator chemical) in a medium, this relationship could also be used to fill data gaps. In any case, the strength and character of the relationship between the chemical and the surrogate must be explained.

²⁷ "Conservative" assumptions are those which tend to maximize estimates of exposure or dose, such as choosing a value near the high end of the concentration or intake rate range.

²⁸ Obviously, the mathematical product of several conservative assumptions is more conservative than any single assumption alone. Ultimately, this could lead to unrealistically conservative bounding estimates (see section 5.3).

²⁹ Note that when using a passive dosimetry monitoring method, what is measured is the amount of chemical impinging on the skin surface or available for inhalation, that is, exposure, not the actual dose received. Factors such as dermal penetration, are, of course, expected to be highly chemical dependent.

- Professional judgment can be used. The utility of this option depends on the confidence placed in the estimate. Expert opinion based on years of observation of similar circumstances usually carries more weight than anecdotal information. The assessor must discuss the implications of these estimates in the uncertainty analysis.

5.3. Calculating Exposure and Dose

Depending on the approach used to quantify exposure and dose, various types of data will have been assembled. In calculating exposures and doses from these data, the assessor needs to direct attention specifically to certain aspects of the data. These aspects include the use of short-term data for long-term projections, the role of personal monitoring data, and the particular way the data might be used to construct scenarios. Each of these aspects is covered in turn below.

5.3.1. Short-Term Versus Long-Term Data for Population Exposures

Short-term data, for the purposes of this discussion, are data representing a short period of time measured (or modeled) relative to the time period covered in the exposure assessment. For example, a 3-day sampling period would produce short-term data if the exposure assessment covered a period of several years to a lifetime. The same 3-day sampling period would not be considered short-term if the assessment covered, say, a few days to a week.

Short-term data can provide a snapshot of concentrations or exposures during that time, and an inference must be made about what that means for the longer term if the exposure assessment covers a long period. The assessor must determine how well the short-term data represent the longer period.

Even when short-term population data are statistically representative (i.e., they describe the shape of the distribution, the mean, and other statistics), use of these short-term data to infer long-term exposures and risks must be done with caution. Using short-term data to estimate long-term exposures has a tendency to underestimate the number of people exposed, but to overestimate the exposure levels to the upper end of the distribution, even though the mean will remain the same.³⁰ Both

³⁰ Consider, for example, a hypothetical set of 100 rooms (microenvironments) where the concentration of a particular pollutant is zero in 50 of them, and ranges stepwise from 1 to 50 (nominal concentration units) in the remainder. If one person were in each room, short-term "snapshot" monitoring would show that 50 people were

concentration variation at a single point and population mobility will drive the estimates of the levels of exposure for the upper tail of the distribution toward the mean. If short-term data are used for long-term exposure or dose estimates, the implications of this on the estimated exposures must be discussed in the assessment. Likewise, use of long-term monitoring data for specific short-term assessments can miss significant variations due to short-term conditions or activities. Long-term data should be used cautiously when estimating short-term exposures or doses, and the implications should be discussed in the assessment.

5.3.2. Using Point-of-Contact Data to Calculate Exposure and Dose

Point-of-contact exposure assessments are often done with the intent of protecting the individuals, often in an occupational setting. When exposures are being evaluated to determine whether they exceed an action level or other benchmark, point-of-contact measurements are the most relevant data.

Typically, point-of-contact measurement data reflect exposures over periods of minutes to perhaps a week or so. For individuals whose exposures have been measured, these data may be used directly as an indication of their exposure during the sampling period, provided they are of adequate quality, measure the appropriate chemical, and actually measure exposure while it occurs. This is the only case in which measurement data may be used directly as exposure data.

When using point-of-contact measurements, even with statistically based data, several inferences still must be made to calculate exposure or dose:

- Inferences must be made to apply short-term measurements of exposure to long-term estimates of exposure; these are subject to the cautions outlined in section 5.3.1.
- Inferences must be made about the representativeness of the individual or persons sampled for the individual or

unexposed and the others were exposed to concentrations ranging from 1 to 50. If the concentration in each room remained constant and people were allowed to visit any room at random, long-term monitoring would indicate that all 100 were exposed to a mean concentration of 12.75. The short-term data would tend to overestimate concentration and underestimate the number of persons exposed if applied to long-term exposures. If only average values were available, the long-term data would tend to underestimate concentration and overestimate the number exposed if applied to short-term exposures. Because populations are not randomly mobile or static, the exposure assessor should determine what effect this has on the exposure estimate.

population segment for which the assessment is done.

- Inferences must be made about the factors converting measured exposure to potential or internal dose for use in a risk assessment.

- If the assessment requires it, inferences must be made about the relationship between the measured chemical exposures and the presence and relative contribution of various sources of the chemical.

5.3.3. The Role of Exposure Scenarios in Exposure Assessment

Exposure scenarios have several functions in exposure and risk assessments. First, they are calculational tools to help the assessor develop estimates of exposure, dose, and risk. Whatever combination of data and models is used, the scenario will help the assessor to picture how the exposure is taking place, and will help organize the data and calculations. Second, the estimates derived from scenarios are used to develop a series of exposure and risk descriptors, which were discussed in section 2.3. Finally, exposure scenarios can often help risk managers make estimates of the potential impact of possible control actions. This is usually done by changing the assumptions in the exposure scenario to the conditions as they would exist after the contemplated action is implemented, and reassessing the exposure and risk. These three uses of exposure assessments are explained in sections 5.3.3.1, 5.3.3.2, and 5.3.3.3, respectively.

An exposure scenario is the set of information about how exposure takes place. An exposure scenario generally includes facts, data, assumptions, inferences, and sometimes professional judgment about the following:

- The physical setting where exposure takes place (exposure setting)
- The exposure pathway(s) from source(s) to exposed individual(s) (exposure pathways)
- The characterization of the chemical, i.e., amounts, locations, time variation of concentrations, source strength, environmental pathways from source to exposed individuals, fate of the chemical in the environment, etc. (characterization of the chemical)

- Identification of the individual(s) or population(s) exposed, and the profile of contact with the chemical based on behavior, location as a function of time, characteristics of the individuals, etc. (characterization of the exposed population)
- If the dose is to be estimated, assumptions about the transfer of the

chemical across the boundary, i.e., ingestion rates, respiration rates, absorption rates, etc. (intake and uptake rates)

It usually is necessary to know whether the effect of concern is chronic, acute, or dependent on a particular exposure time pattern.

The risk characterization, the link between the development of the assessment and the use of the assessment, is usually communicated in part to the risk manager by means of a series of "risk descriptors," which are merely different ways to describe the risk. Section 2.3 outlined two broad types of descriptors: individual risk descriptors and population risk descriptors, with several variations for each. To the exposure or risk assessor, different types of risk information require different risk descriptors and different analyses of the data. The following paragraphs discuss some of the aspects of developing and using exposure scenarios in various functions for exposure assessment.

5.3.3.1. Scenarios as a Means to Quantify Exposure and Dose

When using exposure scenario evaluation as a means to quantify exposure and dose, it is possible to accumulate a large volume of data and estimated values, and both the amount and type of information can vary widely. The exposure scenario also contains the information needed to calculate exposure, since the last three bullets above (section 5.3.3) are the primary variables in most exposure and dose equations.

As an example, consider Equation 2-5, the equation for lifetime average daily potential dose ($LADD_{pot}$). This equation uses the variables of exposure concentration (C), intake rate (IR), and exposure duration (ED) as the three primary variables. Body weight (BW) and averaging time (AT) (in this case, lifetime, LT) are not related to the exposure or dose *per se*, but are averaging variables used to put the resulting dose in convenient units of lifetime average exposure or dose per kg of body weight.

In looking at the three primary variables (C, IR, and ED), the exposure assessor must determine what value to use for each to solve the equation. In actuality, the information available for a variable like C may consist of measurements of various points in an environmental medium, source and fate characterizations, and model results. There will be uncertainty in the values for C for any individual; there will also be variability among individuals. Each

of these primary variables will be represented by a range of values, even though at times, the boundaries of this range will be unknown. How exposure or dose is calculated depends on how these ranges are treated.

In dealing with these ranges in trying to solve the equation for LADD, the assessor has at least two choices. First, statistical tools, such as the Monte Carlo analysis, can be used to enter the values as frequency distributions, which results in a frequency distribution for the LADD. This is an appropriate strategy when the frequency distributions are known for C, IR, and ED (or for the uptake analogs, C, K_p, SA, and ED introduced in section 2), and when these variables are independent.

A second approach is to select or estimate discrete values from the ranges of each of the variables and use these values to solve the LADD equation. This approach usually results in a less certain estimate, but may be easier to do. Which values are used determines how the resulting estimate will be described. Several terms for describing such estimates are discussed in section 5.3.3.2.

Since exposure to chemicals occurs through a variety of different pathways, contact patterns, and settings, sufficient perspective must be provided to the users of the assessment (usually risk managers) to help them make an informed decision. Providing this perspective and insight would be relatively straightforward if complete and accurate information were known about the exposure, dose, and risk for each and every person within the population of interest. In this hypothetical situation, these individual data could actually be arrayed next to the name of each person in the population, or the data could be compiled into frequency distribution curves. From such distributions, the average, median, maximum, or other statistical values could easily be read off the curves and presented to the risk manager. In addition, accurate information could be provided about how many persons are above certain exposure, dose, or risk levels as well as information about where various subgroups fall within the subject distribution.

Unfortunately, an assessor rarely has these kinds of data; the reality an assessor faces usually falls far short of this ideal. But it is precisely this kind of information about the distribution of exposure, dose, and risk that is needed many times by the risk assessor to characterize risk, and by the risk manager to deal with risk-related issues.

In the absence of comprehensive data, or if the scenario being evaluated is a possible future use or post-control scenario, an assessor must make assumptions in order to estimate what the distribution would look like if better data were available, or if the possible future use becomes a reality. Communicating this estimated distribution to the risk manager can be difficult. The assessor must not only estimate exposure, dose, and risk levels, but must also estimate where those levels might fall on the actual distributions or estimated distributions for potential future situations. To help communicate where on the distribution the estimate might fall, loosely defined terms such as reasonable worst case, worst case, and maximally exposed individual have been used by assessors. Although these terms have been used to help describe the exposure assessor's perceptions of where estimated exposures fall on the actual or potential distribution for the future use, the *ad hoc* nature of the historical definitions used has led to some inconsistency. One of the goals of these Guidelines is to promote greater consistency in the use of terms describing exposure and risk.

5.3.3.2. Exposure Scenarios and Exposure Estimators as Input to Risk Descriptors

As discussed in section 2.3, risk descriptors convey information about risk to users of that information, primarily risk managers. This information usually takes the form of answers to a relatively short set of questions, not all of which are applicable to all assessments. Section 5.3.5 provides more detail on how the exposure assessor's analysis leads to construction of the risk descriptors.

5.3.3.3. Exposure Scenarios as a Tool for Option Evaluation

A third important use for exposure scenarios is as a tool for evaluating proposed options for action. Risk managers often have a number of choices for dealing with environmental problems, from taking no action on one extreme to a number of different actions, each with different costs, on the other. Often the exposure scenarios developed as part of the baseline risk assessment provide a powerful tool to evaluate the potential reduction of exposure and risk for these various options, and consequently are quite useful in many cost-benefit analyses.

There are several additional related uses of exposure scenarios for risk managers. They may help establish a range of options for cleanup by showing the sensitivity of the risk estimates to the changes in assumed source or

exposure levels. The exposure assessor can use the sensitivity analysis of the exposure scenario to help evaluate and communicate the uncertainty of the assumptions, and what can be done to reduce that uncertainty. Well-crafted and soundly based exposure scenarios may also help communicate risks and possible options to community groups.

Although it is beyond the scope of these Guidelines to detail the methods used for option evaluation and selection, the assessor should be aware of this potential use. Discussing strategy (and specific information needs) with risk managers is usually prudent before large resource expenditures are made in the risk assessment area.

5.3.4. General Methods for Estimating Exposure and Dose

A variety of methods are used to obtain estimates of dose necessary for risk characterization. These range from quick screening level calculations and rules of thumb to more sophisticated techniques. The technique to be used in a given case is a matter of the amount of information available and the purpose of the assessment. Several of the methods are outlined in the following sections.

Normally it is neither practical nor advisable to immediately develop detailed information on all the potential pathways, since not all may contribute significantly to the outcome of the assessment.³¹ Rather, evaluation of the scenario is done in an iterative manner. First, screening or bounding techniques are used to ascertain which pathways are unimportant, then the information for the remaining pathways is refined, iteratively becoming more accurate, until the quantitative objectives of the assessment are met (or resources are depleted).

In beginning the evaluation phase of any assessment, the assessor should have a scenario's basic assumptions (setting, scope, etc.) well identified, one or more applicable exposure pathways defined, an equation for evaluating the exposure or dose for each of those exposure pathways, and the data and information requirements pertinent to solving the equations. Quality and quantity of data and information needed to substitute quantitative values or

³¹ There are some important exceptions to this statement. First, the public or other concerned groups may express particular interest in certain pathways, which will not normally be dropped entirely at this point. Second, for routine repetitive assessments using a certain standard scenario for many chemicals, once the general bounding has been done on the various possible pathways, it may become standard operating procedure to immediately begin developing information for particular pathways as new chemicals are assessed.

ranges into the parameters of the exposure equation will often vary widely, from postulated assumptions to actual high-quality measurements. Many times, there are several exposure pathways identified within the scenario, and the quality of the data and information may vary for each.

A common approach to estimating exposure and dose is to do a preliminary evaluation, or screening step, during which bounding estimates are used, and then to proceed to refine the estimates for those pathways that cannot be eliminated as of trivial importance.

5.3.4.1. Preliminary Evaluation and Bounding Estimates

The first step that experienced assessors usually take in evaluating the scenario involves making bounding estimates for the individual exposure pathways. The purpose of this is to eliminate further work on refining estimates for pathways that are clearly not important.

The method used for bounding estimates is to postulate a set of values for the parameters in the exposure or dose equation that will result in an exposure or dose higher than any exposure or dose expected to occur in the actual population. The estimate of exposure or dose calculated by this method is clearly outside of (and higher than) the distribution of actual exposures or doses. If the value of this bounding estimate is not significant, the pathway can be eliminated from further refinement.³²

The theoretical upper bounding estimate (TUBE) is a type of bounding estimate that can be easily calculated and is designed to estimate exposure, dose, and risk levels that are expected to exceed the levels experienced by all individuals in the actual distribution. The TUBE is calculated by assuming limits for all the variables used to calculate exposure and dose that, when combined, will result in the mathematically highest exposure or dose (highest concentration, highest intake rate, lowest body weight, etc.). The theoretical upper bound is a bounding estimate that should, if the limits of the parameters used are known, ensure that the estimate is above the actual exposures received by all

individuals in the population. It is not necessary to go to the formality of the TUBE to assure that the exposure or dose calculated is above the actual distribution, however, since any combination that results in a value clearly higher than the actual distribution can serve as a suitable upper bound.

The bounding estimate (a limit of individual exposure, dose or risk) is most often used only to eliminate pathways from further consideration. This is often done in screening-level assessments, where bounding estimates of exposure, dose, or risk provide a quick and relatively easy check on whether the levels to be assessed are trivial relative to a level that would cause concern. If acceptably lower than the concern level, then additional assessment work is not necessary.

Bounding estimates also are used in other types of assessments. They can be used for deregulation of chemicals when pathways or concentrations can be shown to present insignificant or *de minimis* risk. They can be used to determine whether more information is needed to determine whether a pathway is significant; if the pathway's significance cannot be ruled out by a bounding estimate, test data may be needed to refine the estimate.

There are two important points about bounding estimates. First, the only thing the bounding estimate can establish is a level to eliminate pathways from further consideration. It cannot be used to make a determination that a pathway is significant (that can only be done after more information is obtained and a refinement of the estimate is made), and it certainly cannot be used for an estimate of actual exposure (since by definition it is clearly outside the actual distribution). Second, when an exposure scenario is presented in an assessment, it is likely that the amount of refinement of the data, information, and estimates will vary by pathway, some having been eliminated by bounding estimates, some eliminated after further refinement, and others fully developed and quantified. This is an efficient way to evaluate scenarios. In such cases, bounding estimates must not be considered to be equally as sophisticated as an estimate of a fully developed pathway, and should not be described as such.

Experienced assessors can often eliminate some obvious pathways more or less by inspection as they may have evaluated these pathways many times before.³³ In these cases, the assessor

must still explain why the pathway is being eliminated. For less experienced assessors, developing bounding estimates for all pathways is instructive and will be easier to defend.

5.3.4.2. Refining the Estimates of Exposure and Dose

For those pathways not eliminated by bounding estimates or judged trivial, the assessor will then evaluate the resulting exposure or dose. At this point, the assessor will make estimates of exposure or dose that are designed to fall on the actual distribution. The important point here is that unlike a bounding estimate, these estimates of exposure or dose should focus on points in the actual distribution. Both estimates of central tendency and estimates of the upper end of the distribution curve are useful in crafting risk descriptors.

Consider Equation 2-6 for the lifetime average daily potential dose ($LADD_{pot}$), an equation often used for linear, nonthreshold carcinogen risk models. The assessor will use the data, ranges of data, distributions of data, and assumptions about each of the factors needed to solve the equation for dose. Generally, both central estimates and high-end estimates are performed. Each of these estimates has uncertainty (perhaps unquantifiable uncertainty), and the better the quality and comprehensiveness of data used as input to the equation, the less uncertainty.

After solving the equation, the assessor will determine whether the uncertainty associated with the answer is sufficiently narrow to allow the risk descriptors to be developed (see section 3.4) and to answer satisfactorily the questions posed in the exposure assessment statement of purpose. Evaluating whether the data, uncertainty, risk descriptors, and answers to the questions are good enough is usually a joint responsibility of the risk assessor and the risk manager.

Should the estimates of exposure or dose have sufficiently narrow uncertainty, the assessor can then proceed to develop the descriptors and finish the assessment. If not, the data or assumptions used usually will have to be refined, if resources allow, in an attempt to bring the estimated exposure or dose closer to what the assessor believes are the actual values in the population. Refining the estimates usually requires that new data be brought into consideration³⁴; this new

³² "Not significant" can mean either that it is so small relative to other pathways that it will not add perceptibly to the total exposure being evaluated or that it falls so far below a level of concern that even when added to other results from other pathways, it will be trivial. Note that a "level of concern" is a risk management term, and the assessor must discuss and establish any such levels of concern with risk managers (and in some cases, concerned groups such as the local community) before eliminating pathways as not significant.

³³ Experienced assessors may also be able to determine quickly that a pathway requires refined estimation.

³⁴ It also can involve new methods or additional methods for analyzing the old data.

information can be other studies from the literature, information previously developed for another, related purpose that can be adapted, or new survey, laboratory, or field data. The decision about which particular parts of the information base to refine should be based both on which data will most significantly reduce the uncertainty of the overall exposure or dose estimate, and on which data are in fact obtainable either technologically or within resource constraints.

After refinement of the estimate, the assessor and risk manager again determine whether the estimates provided will be sufficient to answer the questions posed to an acceptable degree, given the uncertainties that may be associated with those estimates. Refinements proceed iteratively until the assessment provides an adequate answer within the resources available.

5.3.5. Using Estimates for Developing Descriptors

Risk assessors and risk managers are encouraged to explore a range of ways to describe exposure and risk information, depending on the purpose of the assessment and the questions for which the risk manager must have answers. Section 2.3 outlines a series of risk descriptors; in the sections below, these are discussed in the context of how an exposure assessor's analysis of the data would lead to various descriptors for risk.

5.3.5.1. Individual Exposure, Dose, and Risk

Questions about individual risk are an important component of any assessment, especially an estimate of the high end of the distribution. Section 5.3.4.1 indicated that bounding estimates are actually a useful but limited form of individual risk estimate, a form which is by definition beyond the highest point on the population distribution. This section deals with estimates that are actually on the distribution of exposure, dose, or risk.

There are several approaches for arriving at an individual risk estimate. Since calculation of risk involves using information from fields other than exposure assessment, the reader is advised to consult other Agency guidelines for more detailed discussions (e.g., U.S. EPA, 1986b, 1986c, 1988b, 1988c, 1991a). The uncertainty in the risk estimate will depend heavily on the quality of the information used. There are several steps in the process:

First, the question of unusual susceptibility of part of the population must be addressed. If equal doses result in widely different responses in two

individuals, it may be necessary to consult with scientists familiar with the derivation of the dose-response relationship for the chemical in question in order to ascertain whether this is normal variability among members of a population. Normal variability should have been considered as part of the development of the dose-response relationship; unusual susceptibility may not have been. If such a highly susceptible subgroup can be identified, it is often useful to assess their risk separately from the general population. It will not be common, given the current data availability, to clearly identify such susceptible subgroups. If none can be identified, the default has usually been to assume the dose-response relationship applies to all members of the population being assessed. Where no information shows the contrary, this assumption may be used provided it is highlighted as a source of uncertainty.

Second, after the population or population segment can be represented by a single dose-response relationship, the appropriate dose for use in the dose-response relationship (absorbed/internal dose, potential dose, applied dose, effective dose) must be identified. For dose-response relationships based on administered dose in animal studies, potential dose will usually be the human analogue. If the dose-response relationship is based on internal dose, then that is the most appropriate human dose. If the estimates of exposure and dose from the exposure assessment are in an inappropriate form (say, potential dose rather than internal dose), they must be converted before they are used for risk calculations. This may involve analysis of bioavailability, absorption rates as a function of form of the chemical and route, etc. If these data are not available, the default has been to assume the entire potential dose becomes the internal dose.³⁵ As more data become available concerning absorption for different chemicals, this conservative assumption may not always be the best, or even a credible, default. Whatever assumption is made

concerning absorption (or the relationships among any of the different dose terms if used, for that matter), it should be highlighted in the uncertainty section.

Once the first two steps have been done, and the dose-response relationship and type of dose have been identified, the exposure and dose information needs to be put in the appropriate form. Ideally, this would be a distribution of doses of the appropriate type across the population or population subgroup of interest. This may involve converting exposures into potential doses or converting potential doses into internal, delivered, or biologically effective doses. Once this is accomplished, the high-end estimate of dose will often (but not always) lead fairly directly to the high-end estimate of risk. The method used to develop the high-end estimate for dose depends on the data available. Because of the skewed nature of exposure data, there is no exact formula that will guarantee an estimate will fall into this range in the actual population if only sparse data are available.

The high-end risk is a plausible estimate of the individual risk for those persons at the upper end of the risk distribution. The intent of this descriptor is to convey an estimate of risk in the upper range of the distribution, but to avoid estimates that are beyond the true distribution. Conceptually, high-end risk means risks above the 90th percentile of the population distribution, but not higher than the individual in the population who has the highest risk. This descriptor is intended to estimate the risks that are expected to occur in small but definable high-end segments of the subject population. The use of "above the 90th percentile" in the definition is not meant to precisely define the range of this descriptor, but rather to clarify what is meant conceptually by high end.

The high-end segments of the exposure, dose, and risk populations may represent different individuals. Since the location of individuals on the exposure, dose, and risk distributions may vary depending on the distributions of bioavailability, absorption, intake rates, susceptibility, and other variables, a high exposure does not necessarily result in a high dose or risk, although logically one would expect a moderate to highly positive correlation among exposure, dose, and risk.

When the complete data on the population distributions of exposures and doses are available, and the significance of the factors above (bioavailability, etc.) are known to the

³⁵ The unstated assumption is often made that the relationship between administered dose and absorbed dose in the animal is the same as that between potential dose and internal dose in humans, provided a correction is made for body weight/surface area. In other words, the bioavailability and absorption fractions are assumed to be the same in the human as in the animal experiment. If no correction is made for absorption, this leads to the assumption that the absorption percent is the same as in the animal experiment from which the dose-response relationship was derived. Note this uncorrected conversion of potential dose to internal dose does not assume "100% absorption" unless there was 100% absorption in the animal study.

extent to allow a risk distribution to be constructed, the high-end risk estimate can be represented by reporting risks at selected percentiles of the distributions, such as the 90th, 95th, or 98th percentile. When the complete distributions are not available, the assessor should conceptually target something above the 90th percentile on the actual distribution.

In developing estimates of high-end individual exposure and dose, the following conditions must be met:

- The estimated exposure or dose is on the expected distribution, not above the value one would expect for the person with the highest estimated risk in the population. This means that when constructing this estimate from a series of factors (environmental concentrations, intake rates, individual activities, etc.), not all factors should be set to values that maximize exposure or dose, since this will almost always lead to an estimate that is much too conservative.

- The combination of values assigned to the exposure and dose factors can be expected to be found in the actual population. In estimating high-end exposures or doses for future use or post-control scenarios, the criterion to be used should be that it is expected to be on the distribution provided the future use or control measure occurs.³⁶

Some of the alternative methods for determining a high-end estimate of dose are:

- If sufficient data on the distribution of doses are available, take the value directly for the percentile(s) of interest within the high end. If possible, the actual percentile(s) should be stated, or the number of persons determined in the high end above the estimate, in order to give the risk manager an idea of where within the high end-range the estimate falls.

- If data on the distribution of doses are not available, but data on the parameters used to calculate the dose are available, a simulation (such as an exposure model or Monte Carlo simulation) can sometimes be made of the distribution. In this case, the assessor may take the estimate from the simulated distribution. As in the method above, the risk manager should be told where in the high-end range the estimate falls by stating the percentile or the number of persons above this estimate.

The assessor and risk manager should be cautioned that unless a great deal is known about exposures or doses at the high end of the distribution, simulated distributions may not be able to differentiate between bounding estimates and high-end estimates. Simulations often include low-probability estimates at the upper end that are higher than those actually experienced in a given population, due to improbability of finding these exposures or doses in a specific population of limited size, or due to nonobvious correlations among

parameters at the high ends of their ranges.³⁷ Using the highest estimate from a Monte Carlo simulation may therefore overestimate the exposure or dose for a specific population, and it is advisable to use values somewhat less than the highest Monte Carlo estimated value if one is to defend the estimate as being within the actual population distribution and not above it.

Simulations using finite ranges for parameters will result in a simulated distribution with a calculable finite maximum exposure, and the maximum exposures calculated in repeated simulations will not exceed this theoretical maximum.³⁸ When unbounded default distributions, such as lognormal distributions, are used for input parameters to generate the simulated exposure distributions, there will not be a finite maximum exposure limit for the simulation, so the maximum value of the resulting simulated distribution will vary with repeated simulations. The EPA's Science Advisory Board [SAB] (U.S. EPA, 1992a) has recommended that values above a certain percentile in these simulations be treated as if they were bounding estimates, not estimates of high-end exposures (see Figure 5-1). The SAB noted that for large populations, simulated exposures, doses, and risks above the 99.9th percentile may not be meaningful when unbounded lognormal distributions are used as a default.

³⁶ This means that estimates of high-end exposure or dose for future uses are limited to the same conceptual range as current uses. Although a "worst-case" combination of future conditions or events may result in an exposure that is conceivably possible, the assessor should not merely use a worst-case combination as an estimate of high-end exposure for possible future uses. Rather, the assessor must use judgment as to what the range of exposures or doses would plausibly be,

given the population size and probability of certain events happening.

³⁷ For example, although concentration, frequency, duration, and breathing rate may be independent for a consumer painting rooms in a house under most normal circumstances, if the concentration is high enough, it may affect the other parameters such as duration or breathing rate. These types of high-end correlations are difficult to quantify, and techniques such as Monte Carlo simulations will not consider them unless

relationships are known and taken into account in the simulation. If extreme concentration in this case resulted in lower breathing rate or duration, a non-corrected Monte Carlo simulation could overestimate the exposure or dose at the high end. Far less likely, due to self-preservation processes, would seem the case where high concentration increases duration or intake rate, although this theoretically might also occur.

³⁸ This maximum is the theoretical upper bounding estimate (TUBE).

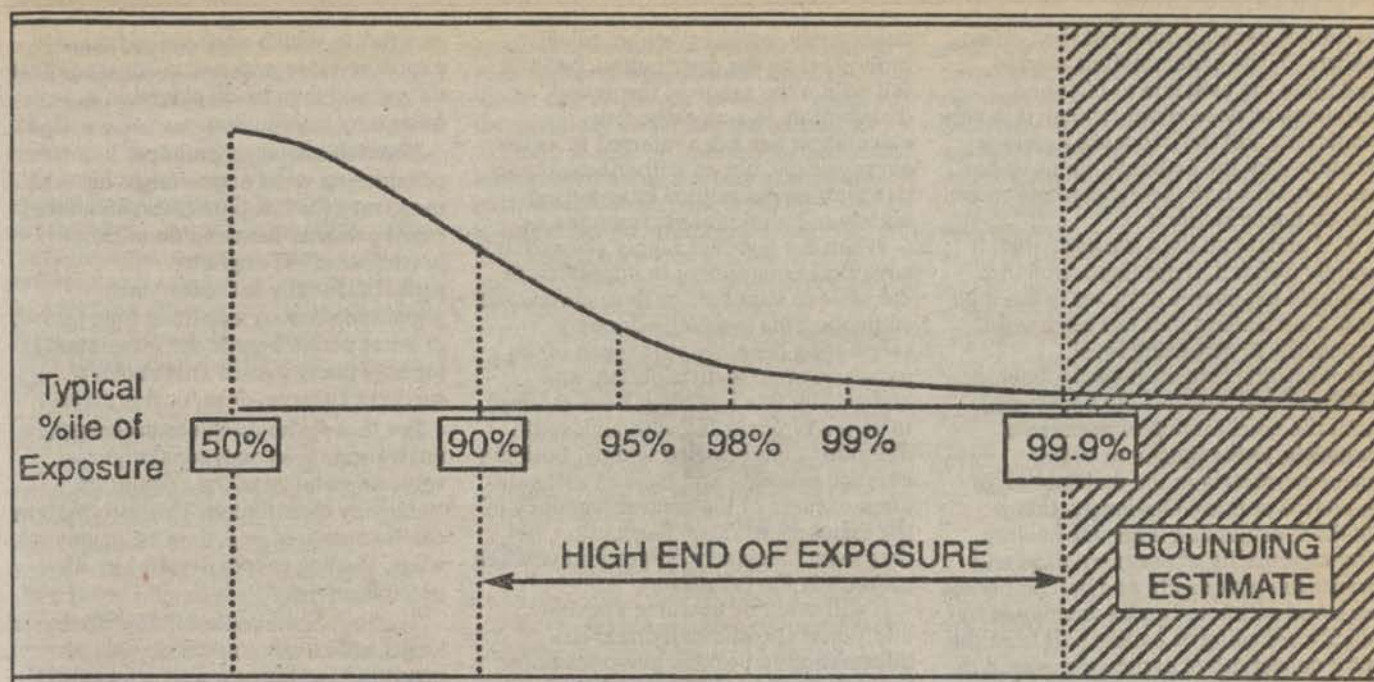


Figure 5-1. Schematic of exposure estimators for unbounded simulated population distributions.

For simulated distributions, whether derived from measured data or statistical methods such as Monte Carlo analysis, the high-end estimator should not exceed the 99.9th percentile. Bounding estimates should reflect the size of the population (see text), therefore bounding estimates for this type of distribution should not automatically be set at 99.9th percentile. Several statistical estimators of exposure should be identified, e.g., the 50th, 90th, or 95th percentiles. The distribution should reflect exposures, not just concentrations.

Although the Agency has not specifically set policy on this matter, exposure assessors should observe the following caution when using simulated distributions. The actual percentile cutoff above which a simulation should be considered a *bounding estimate* may be expected to vary depending on the size of the population. Since bounding estimates are established to develop statements that exposures, doses, and risks are "not greater than . . .," it is prudent that the percentile cutoff bound expected exposures for the size of the population being evaluated. For example, if there are 100 persons in the

population, it may be prudent to consider simulated exposures above the 1 in 500 level or 1 in 1000 level (i.e., above the 99.5th or 99.9th percentile, respectively) to be bounding estimates. Due to uncertainties in simulated distributions, assessors should be cautious about using estimates above the 99.9th percentile for estimates of *high-end* exposure regardless of the size of the population. The Agency or individual program offices may issue more direct policy for setting the exact cutoff value for use as high-end and bounding estimates in simulations.

- If some information on the distribution of the variables making up the exposure or dose equation (e.g., concentration, exposure duration, intake or uptake rates) is available, the assessor may estimate a value which falls into the high end by meeting the defining criteria of "high end": An estimate that will be within the distribution, but high enough so that less than 1 out of 10 in the distribution will be as high. The assessor often constructs such an estimate by using maximum or near-maximum values for one or more of the most sensitive

variables, leaving others at their mean values.³⁹ The exact method used to calculate the estimate of high-end exposure or dose is not critical; it is very important that the exposure assessor explain why the estimate, in his or her opinion, falls into the appropriate range, not above or below it.

If almost no data are available, it will be difficult, if not impossible, to estimate exposures or doses in the high end. One method that has been used, especially in screening-level assessments, is to start with a bounding estimate and back off the limits used until the combination of parameter values is, in the judgment of the assessor, clearly in the distribution of exposure or dose. Obviously, this method results in a large uncertainty. The availability of pertinent data will determine how easily and defensibly the high-end estimate can be developed by simply adjusting or backing off from the ultra conservative assumptions used in the bounding estimates. This estimate must still meet the defining criteria of "high end," and the assessor should be ready to explain why the estimate is thought to meet the defining criteria.

A descriptor of central tendency may be either the arithmetic mean risk (average estimate) or the median risk (median estimate), but should be clearly labeled as such. Where both the arithmetic mean and the median are available, but differ substantially, it is helpful to present both.

Exposure and dose profiles often fall in a skewed distribution that many times appears to be approximately lognormally distributed, although statistical tests for lognormality may fail. The arithmetic mean and the median are the same in a normal distribution, but exposure data are rarely normally distributed. As the typical skewness in the distribution increases, the exposure or dose distribution comes to resemble a lognormal curve where the arithmetic mean will be higher than the median. It is not unusual for the arithmetic mean to be located at the 75th percentile of the distribution or higher. Thus, the arithmetic mean is not necessarily a good indicator of the midpoint (median, 50th percentile) of a distribution.

The average estimate, used to describe the arithmetic mean, can be approximated by using average values for all the factors making up the exposure or dose equation. It does not

necessarily represent a particular individual on the distribution, but will fall within the range of the actual distribution. Historically, this calculation has been referred to as the average case, but as with other *ad hoc* descriptors, definitions have varied widely in individual assessments.

When the data are highly skewed, it is sometimes instructive to approximate the median exposure or dose, or median estimate. This is usually done by calculating the geometric mean of the exposure or dose distribution, and historically this has often been referred to as the typical case, although again, definitions have varied widely. Both the average estimate and median estimate are measures of the central tendency of the exposure or dose distribution, but they must be clearly differentiated when presenting the results.

It will often be useful to provide additional specific individual risk information to provide perspective for the risk manager. This specific information may take the form of answers to what if questions, such as, what if a consumer should use this product without adequate ventilation? For the risk manager, these questions are likely to put bounds on various aspects of the risk question. For the assessor, these are much less complicated problems than trying to estimate baseline exposure or dose in an actual population, since the answers to these questions involve choosing values for various parameters in the exposure or risk equations and solving them for the estimate.

This type of risk descriptor is a calculation of risk to specific hypothetical or actual combinations of factors postulated within the exposure assessment. It is often valuable to ask and answer specific questions of the "what if" nature to add perspective to the risk assessment.

Each assessment may have none, one, or several of these specific types of descriptors. The answers to these questions might be a point estimate or a range, but are usually fairly simple to calculate. The answers to these types of postulated questions, however, do not directly give information about how likely that combination of values might be in the actual population, so there are some limits to the applicability of these descriptors.

5.3.5.2. Population Exposure, Dose, and Risk

Questions about population exposure, dose, and risk are central to any risk assessment. Ideally, given the time and methods, the assessor might strive to construct a picture of exposure, dose,

and risk in which each individual exposure, dose and risk is known. These data could then be displayed in a frequency distribution.

The risk manager, perhaps considering what action might be necessary for this particular situation, might ask how many cases of the particular effect might be probabilistically estimated in a population during a specific time period, or what percentage of the population is (or how many people are) above a certain exposure, dose, or risk level.

For those who do the assessments, answering these questions requires some knowledge of the population frequency distribution. This information can be obtained or estimated in several ways, leading to two descriptors of population risk.

The first is the probabilistic number of health effect cases estimated in the population of interest over a specified time period. This descriptor can be obtained either by summing the individual risks over all the individuals in the population, or by multiplying the slope factor obtained from a carcinogen dose-response relationship, the arithmetic mean of the dose, and the size of the population. The latter approach may be used only if the risk model assumes a single linear, nonthreshold response to dose, and then only with some caution.⁴⁰ If risk varies

⁴⁰For example, when calculating risks using doses and "slope factors," the risk is approximately linear with dose until relatively high individual risks (about 10^{-3}) are attained, after which the relationship is no longer even approximately linear. This results from the fact that no matter how high the dose, the individual risk cannot exceed 1, and the dose-risk curve approaches 1 asymptotically. This can result in artifacts when calculating population risk from average individual doses and population size if there are individuals in the population in this nonlinear risk range. Consider a population of five persons, only one of whom is exposed. As an example, assume a lifetime average daily dose of 100 mg/kg/day corresponds to an individual risk of 4×10^{-4} . Increasing the dose fivefold, to 500 mg/kg/day, would result in a higher individual risk for that individual, but due to the nonlinearity of the dose-risk curve, not yet a risk of 1. The average dose for the five persons in the population would then be 100 mg/kg/day. Multiplying the "average risk" of 4×10^{-4} by the population size of five results in an estimate of two cases, even though in actuality only one person is exposed. Although calculating average individual dose, estimating individual risk from it, and multiplying by the population size is a useful approximation if all members of the population are within the approximately linear range of the dose-risk curve, this method should not be used if some members of the population have calculated individual risks higher than about 10^{-3} , since it will overestimate the number of cases.

³⁹Maximizing all variables, as is done in bounding estimates, will result in virtually all cases in an estimate that is above the bounds of this range, that is, above the actual values seen in the population.

linearly with dose, knowing the arithmetic mean risk and the population size can lead to an estimate of the extent of harm for the population as a whole, excluding sensitive subgroups for which a different dose-response curve may need to be used. For noncarcinogens, or for nonlinear, nonthreshold carcinogen models, using the arithmetic mean exposure or dose, multiplying by a slope factor to calculate an average risk, and multiplying by the population size is not appropriate, and risks should be summed over individuals.⁴¹

Obviously, the more relevant information one has, the less uncertain this descriptor, but in any case, the estimate used to develop the descriptor is also limited by the inherent uncertainties in risk assessment methodology, e.g., the risk estimates often being upper confidence level bounds. With the current state of the science, this descriptor should not be confused with an actuarial prediction of cases in the population (which is a statistical prediction based on a great deal of empirical data).

The second type of population risk descriptor is an estimate of the percentage of the population, or the number of persons, above a specified level of risk, RfD, RfC, LOAEL, or other specific level of interest. This descriptor must be obtained by measuring or simulating the population distribution, which can be done in several ways.

First, if the population being studied is small enough, it may be possible to measure the distribution of exposure or dose. Usually, this approach can be moderately to highly costly, but it may be the most accurate. Possible problems with this approach are lack of measuring techniques for the chemical of interest, the availability of a suitable population subset to monitor, and the problem of extrapolating short-term measurements to long-term exposures.

Second, the distribution itself may be simulated from a model such as an exposure model (a model that reports exposures or doses by linking concentrations with contact times for subsets of the population, such as those living various distances from a source) or a Monte Carlo simulation. Although this may be considerably less costly than measurements, it will probably be less accurate, especially near the high end of the distribution. Although models and statistical simulations can be fairly

accurate if the proper input data are available, these data are often difficult to obtain and assumptions must be made; use of assumptions may reduce the certainty of the estimated results.

Third, it may be possible to estimate how many people are above a certain exposure, dose, or risk level by identifying and enumerating certain population segments known to be at higher exposure, dose, sensitivity, or risk than the level of interest.

For those who use the assessments, this descriptor can be used in the evaluation of options if a level can be identified as an exposure, dose, or risk level of concern. The options can then be evaluated by estimating how many persons would go from the higher category to the lower category after the option is implemented.

Questions about the distribution of exposure, dose, and risk often require the use of additional risk descriptors. In considering the risks posed by the particular situation being evaluated, a risk manager might want to know how various subgroups fall within the distribution, and if there are any particular subgroups at disproportionately high risk.

It is often helpful for the risk assessor to describe risk by an identification, and if possible, characterization and quantification of the magnitude of the risk for specific highly exposed subgroups within the population. This descriptor is useful when there is (or is expected to be) a subgroup experiencing significantly different exposures or doses from that of the larger population.

It is also helpful to describe risk by an identification, and if possible, characterization and quantification of the magnitude of risk for specific highly sensitive or highly susceptible subgroups within the population. This descriptor is useful when the sensitivity or susceptibility to the effect for specific subgroups within the population is (or is expected to be) significantly different from that of the larger population. In order to calculate risk for these subgroups, it will sometimes be necessary to use a different dose-response relationship.

Generally, selection of the subgroups or population segments is a matter of either *a priori* interest in the subgroup, in which case the risk manager and risk assessor can jointly agree on which subgroups to highlight, or a matter of discovery of a subgroup during the assessment process. In either case, the subgroup can be treated as a population in itself and characterized the same way as the larger population using the descriptors for population and individual risk.

Exposures and doses for highly-exposed subpopulations can be calculated by defining the population segment as a population, then estimating the doses as for a population. The assessor must make it clear exactly which population was considered.

A special case of a subpopulation is that of children. For exposures that take place during childhood, when low body weight results in a higher dose rate than would be calculated using the LADD_{pot} (Equation 2-6), it is appropriate to average the dose rate (intake rate/body weight) rather than dose. The LADD_{pot} equation then becomes

$$LADD_{pot} = \sum_i \{ \bar{C}_i \cdot (\bar{IR} / BW)_i \cdot (ED_i / LT) \} \quad (5-1)$$

where LADD_{pot} is the lifetime average daily potential dose, ED_i is the exposure duration (time over which the contact actually takes place), \bar{C}_i is the average exposure concentration during period of calendar time ED_i, IR_i is the average ingestion or inhalation rate during ED_i, BW_i is body weight during exposure duration ED_i, and LT is the averaging time, in this case, a lifetime (converted to days). This form of the LADD_{pot} equation, if applied to an exposure that occurs primarily in childhood (for example, inadvertent soil ingestion), may result in an LADD_{pot} calculation somewhat higher than that obtained by using Equation 2-6, but there is some evidence that it is more defensible (Kodell *et al.*, 1987; additional discussion in memorandum from Hugh McKinnon, EPA, to Michael Callahan, EPA, November 9, 1990).

6. Assessing Uncertainty

Assessing uncertainty may involve simple or very sophisticated techniques, depending on the requirements of the assessment. Uncertainty characterization and uncertainty assessment are two activities that lead to different degrees of sophistication in describing uncertainty. Uncertainty characterization generally involves a qualitative discussion of the thought processes that lead to the selection and rejection of specific data, estimates, scenarios, etc. For simple exposure assessments, where not much quantitative information is available, uncertainty characterization may be all that is necessary.

The uncertainty assessment is more quantitative. The process begins with simpler measures (i.e., ranges) and simpler analytical techniques (i.e., sensitivity analysis), and progresses, to the extent needed to support the decision for which the exposure

⁴¹ In these cases, a significant problem can be the lack of a constant (or nearly constant) "slope factor" that would be appropriate over a wide exposure/dose range, since the dose-response curve may have thresholds, windows, or other discontinuities.

assessment is conducted, to more complex measures and techniques. The development and implementation of an appropriate uncertainty assessment strategy can be viewed as a decision process. Decisions are made about ways to characterize and analyze uncertainties, and whether to proceed to increasingly more complex levels of uncertainty assessment.

6.1. Role of Uncertainty Analysis in Exposure Assessment

Exposure assessment uses a wide array of information sources and techniques. Even where actual exposure-related measurements exist, assumptions or inferences will still be required (see section 5.2). Most likely, data will not be available for all aspects of the exposure assessment and those data that are available may be of questionable or unknown quality. In these situations, the exposure assessor will have to rely on a combination of professional judgment, inferences based on analogy with similar chemicals and conditions, estimation techniques, and the like. The net result is that the exposure assessment will be based on a number of assumptions with varying degrees of uncertainty.

The decision analysis literature has focused on the importance of explicitly incorporating and quantifying scientific uncertainty in risk assessments (Morgan, 1983; Finkel, 1990). Reasons for addressing uncertainties in exposure assessments include:

- Uncertain information from different sources of different quality must be combined.
- A decision must be made about whether and how to expend resources to acquire additional information (e.g., production, use, and emissions data; environmental fate information; monitoring data; population data) to reduce the uncertainty.
- There is considerable empirical evidence that biases may result in so-called best estimates that are not actually very accurate. Even if all that is needed is a best-estimate answer, the quality of that answer may be improved by an analysis that incorporates a frank discussion of uncertainty.
- Exposure assessment is an iterative process. The search for an adequate and robust methodology to handle the problem at hand may proceed more effectively, and to a more certain conclusion, if the associated uncertainty is explicitly included and can be used as a guide in the process of refinement.
- A decision is rarely made on the basis of a single piece of analysis. Further, it is rare for there to be one discrete decision; a process of multiple

decisions spread over time is the more common occurrence. Chemicals of concern may go through several levels of risk assessment before a final decision is made. Within this process, decisions may be made based on exposure considerations. An exposure analysis that attempts to characterize the associated uncertainty allows the user or decision-maker to better evaluate it in the context of the other factors being considered.

- Exposure assessors have a responsibility to present not just numbers but also a clear and explicit explanation of the implications and limitations of their analyses. Uncertainty characterization helps carry out this responsibility.

Essentially, the construction of scientifically sound exposure assessments and the analysis of uncertainty go hand in hand. The reward for analyzing uncertainties is knowing that the results have integrity or that significant gaps exist in available information that can make decision-making a tenuous process.

6.2. Types of Uncertainty

Uncertainty in exposure assessment can be classified into three broad categories:

1. Uncertainty regarding missing or incomplete information needed to fully define the exposure and dose (scenario uncertainty).
2. Uncertainty regarding some parameter (parameter uncertainty).
3. Uncertainty regarding gaps in scientific theory required to make predictions on the basis of causal inferences (model uncertainty).

Identification of the sources of uncertainty in an exposure assessment is the first step toward eventually determining the type of action necessary to reduce that uncertainty. The three types of uncertainty mentioned above can be further defined by examining some principal causes for each.

Exposure assessments often are developed in a phased approach. The initial phase usually involves some type of broad-based screening in which the scenarios that are not expected to pose a risk to the receptor are eliminated from a more detailed, resource-intensive review, usually through developing bounding estimates. These screening-level scenarios often are constructed to represent exposures that would fall beyond the extreme upper end of the expected exposure distribution. Because the screening-level assessments for these nonproblem scenarios usually are included in the final exposure assessment document, this final document may contain scenarios that

differ quite markedly in level of sophistication, quality of data, and amenability to quantitative expressions of uncertainty. These also can apply to the input parameters used to construct detailed exposure scenarios.

The following sections will discuss sources, characterization, and methods for analyzing the different types of uncertainty.

6.2.1. Scenario Uncertainty

The sources of scenario uncertainty include descriptive errors, aggregation errors, errors in professional judgment, and incomplete analysis.

Descriptive errors include errors in information, such as the current producers of the chemical and its industrial, commercial, and consumer uses. Information of this type is the foundation for the eventual development of exposure pathways, scenarios, exposed populations, and exposure estimates.

Aggregation errors arise as a result of lumping approximations. Included among these are assumptions of homogeneous populations, and spatial and temporal approximations such as assumptions of steady-state conditions.

Professional judgment comes into play in virtually every aspect of the exposure assessment process, from defining the appropriate exposure scenarios, to selecting the proper environmental fate models, to determining representative environmental conditions, etc. Errors in professional judgment also are a source of uncertainty.

A potentially serious source of uncertainty in exposure assessments arises from incomplete analysis. For example, the exposure assessor may overlook an important consumer exposure due to lack of information regarding the use of a chemical in a particular product. Although this source of uncertainty is essentially unquantifiable, it should not be overlooked by the assessor. At a minimum, the rationale for excluding particular exposure scenarios should be described and the uncertainty in those decisions should be characterized as high, medium, or low. The exposure assessor should discuss whether these decisions were based on actual data, analogues, or professional judgment. For situations in which the uncertainty is high, one should perform a reality check where credible upper limits on the exposure are established by a "what if" analysis.

Characterization of the uncertainty associated with nonnumeric assumptions (often relating to setting the assessment's direction and scope) will

generally involve a qualitative discussion of the rationale used in selecting specific scenarios. The discussion should allow the reader to make an independent judgment about the validity of the conclusions reached by the assessor by describing the uncertainty associated with any inferences, extrapolations, and analogies used and the weight of evidence that led the assessor to particular conclusions.

6.2.2. Parameter Uncertainty

Sources of parameter uncertainty include measurement errors, sampling errors, variability, and use of generic or surrogate data.

Measurement errors can be random or systematic. Random error results from imprecision in the measurement process. Systematic error is a bias or tendency away from the true value.

Sampling errors concern sample representativeness. The purpose of sampling is to make an inference about the nature of the whole from a measurement of a subset of the total population. If the exposure assessment uses data that were generated for another purpose, for example, consumer product preference surveys or compliance monitoring surveys, uncertainty will arise if the data do not represent the exposure scenario being analyzed.

The inability to characterize the inherent variability in environmental and exposure-related parameters is a major source of uncertainty. For example, meteorological and hydrological conditions may vary seasonally at a given location, soil conditions can have large spatial variability, and human activity patterns can vary substantially depending on age, sex, and geographical location.

The use of generic or surrogate data is common when site-specific data are not available. Examples include standard emission factors for industrial processes, generalized descriptions of environmental settings, and data pertaining to structurally related chemicals as surrogates for the chemical of interest. This is an additional source of uncertainty, and should be avoided if actual data can be obtained.

The approach to characterizing uncertainty in parameter values will vary. It can involve an order-of-magnitude bounding of the parameter range when uncertainty is high, or a description of the range for each of the parameters including the lower- and upper-bound and the best estimate values and justification for these based on available data or professional judgment. In some circumstances,

characterization can take the form of a probabilistic description of the parameter range. The appropriate characterization will depend on several factors, including whether a sensitivity analysis indicates that the results are significantly affected by variations within the range. When the results are significantly affected by a particular parameter, the exposure assessor should attempt to reduce the uncertainty by developing a description of the likely occurrence of particular values within the range. If enough data are available, standard statistical methods can be used to obtain a meaningful representation. If available data are inadequate, then expert judgments can be used to develop a subjective probabilistic representation. Expert judgments should be developed in a consistent, well-documented manner. Examples of techniques to solicit expert judgments have been described (Morgan *et al.*, 1979; Morgan *et al.*, 1984; Rish, 1988).

Most approaches for analyzing uncertainty have focused on techniques that examine how uncertainty in parameter values translates into overall uncertainty in the assessment. Several published reports (Cox and Baybutt, 1981; U.S. EPA, 1985f; Inman and Helton, 1988; Sellar, 1987; Rish and Marnicio, 1988) have reviewed the many techniques available; the assessor should consult these for details. In general, these approaches can be described, in order of increasing complexity and data requirements, as either sensitivity analysis, analytical uncertainty propagation, probabilistic uncertainty analysis, or classical statistical methods.

Sensitivity analysis is the process of changing one variable while leaving the others constant and determining the effect on the output. The procedure involves fixing each uncertain quantity, one at a time, at its credible lower-bound and then its upper-bound (holding all others at their medians), and then computing the outcomes for each combination of values. These results are useful to identify the variables that have the greatest effect on exposure and to help focus further information gathering. The results do not provide any information about the probability of a quantity's value being at any level within the range; therefore, this approach is most useful at the screening level when deciding about the need and direction of further analyses.

Analytical uncertainty propagation involves examining how uncertainty in individual parameters affects the overall uncertainty of the exposure assessment. Intuitively, it seems clear that

uncertainty in a specific parameter may propagate very differently through a model than another variable having approximately the same uncertainty. Some parameters are more important than others, and the model structure is designed to account for the relative sensitivity. Thus, uncertainty propagation is a function of both the data and the model structure. Accordingly, both model sensitivity and input variances are evaluated in this procedure. Application of this approach to exposure assessment requires explicit mathematical expressions of exposure, estimates of the variances for each of the variables of interest, and the ability either analytically or numerically to obtain a mathematical derivative of the exposure equation.

Although uncertainty propagation is a powerful tool, it should be applied with caution, and the assessor should consider several points. It is difficult to generate and solve the equations for the sensitivity coefficients. In addition, the technique is most accurate for linear equations, so any departure from linearity must be carefully evaluated. Assumptions, such as independence of variables and normality of errors in the variables, need to be checked. Finally, this approach requires estimates of parameter variance, and the information to support these may not be readily available.

Probabilistic uncertainty analysis is generally considered the next level of refinement. The most common example is the Monte Carlo technique where probability density functions are assigned to each parameter, then values from these distributions are randomly selected and inserted into the exposure equation. After this process is completed many times, a distribution of predicted values results that reflects the overall uncertainty in the inputs to the calculation.

The principal advantage of the Monte Carlo method is its very general applicability. There is no restriction on the form of the input distributions or the nature of the relationship between input and output; computations are also straightforward. There are some disadvantages as well as inconveniences, however. The exposure assessor should only consider using this technique when there are credible distribution data (or ranges) for most key variables. Even if these distributions are known, it may not be necessary to apply this technique. For example, if only average exposure values are needed, these can often be computed as accurately by using average values for each of the input parameters. Another

inconvenience is that the sensitivity of the results to the input distributions is somewhat cumbersome to assess. Changing the distribution of only one value requires rerunning the entire calculation (typically, several hundreds or thousands of times). Finally, Monte Carlo results do not tell the assessor which variables are the most important contributors to output uncertainty. This is a disadvantage since most analyses of uncertainty are performed to find effective ways to reduce uncertainty.

Classical statistical methods can be used to analyze uncertainty in measured exposures. Given a data set of measured exposure values for a series of individuals, the population distribution may be estimated directly, provided that the sample design was developed properly to capture a representative sample. The measured exposure values also may be used to directly compute confidence interval estimates for percentiles of the exposure distribution (American Chemical Society, 1988). When the exposure distribution is estimated from measured exposures for a probability sample of population members, confidence interval estimates for percentiles of the exposure distribution are the primary uncertainty characterization. Data collection survey design should also be discussed, as well as accuracy and precision of the measurement techniques.

Often the observed exposure distribution is skewed; many sample members have exposure distributions at or below the detection limit. In this situation, estimates of the exposure distribution may require a very large sample size. Fitting the data to a distribution type can be problematic in this situation because data are usually scant in the low probability areas (the tails) where numerical values vary widely. As a consequence, for data sets for which the sampling has been completed, means and standard deviations may be determined to a good approximation, but characterization of the tails of the distribution will have much greater uncertainty. This difference should be brought out in the discussion. For data sets for which sampling is still practical, stratification of the statistical population to oversample the tail may give more precision and confidence in the information in the tail area of the distribution.

6.2.3. Model Uncertainty

At a minimum, the exposure assessor should describe in qualitative terms the rationale for selection of any conceptual and mathematical models. This discussion should address the status of

these approaches and any plausible alternatives in terms of their acceptance by the scientific community, how well the model(s) represents the situation being assessed, e.g., high end estimate, and to what extent verification and validation have been done. Relationship errors and modeling errors are the primary sources of modeling uncertainty.

Relationship errors include errors in correlations between chemical properties, structure-reactivity correlations, and environmental fate models. In choosing to use these tools, the exposure assessor must decide among the many possible functional forms available. Even though statistics on the performance of the methodology for a given test set of chemicals may be available and can help guide in the selection process, the exposure assessor must decide on the most appropriate methodology for the chemical of interest based on the goals of the assessment.

Modeling errors are due to models being simplified representations of reality, for example approximating a three-dimensional aquifer with a two-dimensional mathematical model. Even after the exposure assessor has selected the most appropriate model for the purpose at hand, one is still faced with the question of how well the model represents the real situation. This question is compounded by the overlap between modeling uncertainties and other uncertainties, e.g., natural variability in environmental inputs, representativeness of the modeling scenario, and aggregation errors. The dilemma facing exposure assessors is that many existing models (particularly the very complex ones) and the hypotheses contained within them cannot be fully tested (Beck, 1987), although certain components of the model may be tested. Even when a model has been validated under a particular set of conditions, uncertainty will exist in its application to situations beyond the test system.

A variety of approaches can be used to quantitatively characterize the uncertainty associated with model constructs. One approach is to use different modeling formulations (including the preferred and plausible alternatives) and consider the range of the outputs to be representative of the uncertainty range. This strategy is most useful when no clear best approach can be identified due to the lack of supporting data or when the situations being assessed require extrapolation beyond the conditions for which the models were originally designed.

Where the data base is sufficient, the exposure assessor should characterize the uncertainty in the selected model by describing the validation and verification efforts. Validation is the process of examining the performance of the model compared to actual observations under situations representative of those being assessed. Approaches for model validation have been discussed (U.S. EPA 1985e). Verification is the process of confirming that the model computer code is producing the proper numerical output. In most situations, only partial validation is possible due to data deficiencies or model complexity.

6.3. Variability Within a Population Versus Uncertainty in the Estimate

For clarity, it should be emphasized that variability (the receipt of different levels of exposure by different individuals) is being distinguished from uncertainty (the lack of knowledge about the correct value for a specific exposure measure or estimate). Most of the exposure and risk descriptors discussed in this report deal with variability directly, but estimates must also be made of the uncertainty of these descriptors.⁴² This may be done qualitatively or quantitatively, and it is beyond the scope of this report to discuss the mechanics of uncertainty analysis in detail. It is an important distinction, however, since the risk assessor and risk manager need to know if the numbers being reported for exposures take variability, uncertainty, or both, into consideration.

Not all approaches historically used to construct measures or estimates of exposure attempted to distinguish variability and uncertainty. In particular, in many cases in which estimates were termed worst case, focusing on the high end of the exposed population and also selection of high-end values for uncertain physical quantities resulted in values that were seen to be quite conservative. By using both the high-end individuals (variability) and upper confidence bounds⁴³ on data or physical parameters

⁴² Each measure or estimate of exposure will have its associated uncertainty which should be addressed both qualitatively and quantitatively. For example, if population mean exposure is being addressed by use of direct personal monitoring data, qualitative issues will include the representativeness of the population monitored to the full population, the representativeness of the period selected for monitoring, and confidence that there were not systematic errors in the measured data. Quantitative uncertainty could be addressed through the use of confidence intervals for the actual mean population exposure.

⁴³ The confidence interval is interpreted as the range of values within which the assessor knows

(uncertainty), these estimates might be interpreted as "not exceeding an upper bound on exposures received by certain high-end individuals."

Note that this approach will provide an estimate that considers both variability and uncertainty, but by only reporting the upper confidence bound, it appears to be merely a more conservative estimate of the variability. High end estimates which include consideration of uncertainty should be presented with both the upper and lower uncertainty bounds on the high end estimate. This provides the necessary information to the risk manager. Without specific discussion of what was done, risk managers may view the results as not having dealt with uncertainty. It is fundamental to exposure assessment that assessors have a clear distinction between the variability of exposures received by individuals in a population, and the uncertainty of the data and physical parameters used in calculating exposure.

The discussion of estimating exposure and dose presented in Section 5.3.4 addresses the rationale and approaches for constructing a range of measures or estimates of exposure, with emphasis on how these can be used for exposure or risk characterization. The distinction between these measures or estimates (e.g., average versus high end) is often a difference in anticipated variability in the exposures received by individuals (i.e., average exposure integrates exposures across all individuals, while high-end exposure focuses on the upper percentiles of the exposed group being assessed.) Although several measures can be used to characterize risk in different ways, this does not address which of these measures or characterizations is used for decisions. The selection of the point or measure of exposure or risk upon which regulatory decisions are made is a risk management decision governed by programmatic policy, and is therefore beyond the scope of these guidelines.

7. Presenting the Results of the Exposure Assessment

One of the most important aspects of the exposure assessment is presenting the results. It is here that the assessment ultimately succeeds or fails in meeting the objectives laid out in the planning as discussed in section 3. This section discusses communication of the results, format considerations, and suggested tips for reviewing exposure assessments

either as a final check or as a review of work done by others.

7.1. Communicating the Results of the Assessment

Communicating the results of an exposure assessment is more than a simple summary of conclusions and quantitative estimates for the various pathways and routes of exposure. The most important part of an exposure assessment is the overall narrative exposure characterization, without which the assessment is merely a collection of data, calculations, and estimates. This exposure characterization should consist of discussion, analysis, and conclusions that synthesize the results from the earlier portions of the document, present a balanced representation of the available data and its relevancy to the health effects of concern, and identify key assumptions and major areas of uncertainty. Section 7.1.1 discusses the exposure characterization, and section 7.1.2 discusses how this is used in the risk characterization step of a risk assessment.

7.1.1. Exposure Characterization

The exposure characterization is the summary explanation of the exposure assessment. In this final step, the exposure characterization:

- Provides a statement of purpose, scope, level of detail, and approach used in the assessment, including key assumptions;
- Presents the estimates of exposure and dose by pathway and route for individuals, population segments, and populations in a manner appropriate for the intended risk characterization;
- Provides an evaluation of the overall quality of the assessment and the degree of confidence the authors have in the estimates of exposure and dose and the conclusions drawn;
 - Interprets the data and results; and
 - Communicates results of the exposure assessment to the risk assessor, who can then use the exposure characterization, along with characterizations of the other risk assessment elements, to develop a risk characterization.

As part of the statement of purpose, the exposure characterization explains why the assessment was done and what questions were asked. It also reaches a conclusion as to whether the questions posed were in fact answered, and with what degree of confidence. It should also note whether the exposure assessment brought to light additional or perhaps more appropriate questions, if these were answered, and if so, with what degree of confidence.

The statement of scope discusses the geographical or demographic boundaries of the assessment. The specific populations and population segments that were the subjects of the assessment are clearly identified, and the reasons for their selection and any exclusions are discussed. Especially sensitive groups or groups that may experience unusual exposure patterns are highlighted.

The characterization also discusses whether the scope and level of detail of the assessment were ideal for answering the questions of the assessment and whether limitations in scope and level of detail were made because of technical, practical, or financial reasons, and the implications of these limitations on the quality of the conclusions.

The methods used to quantify exposure and dose are clearly stated in the exposure characterization. If models are used, the basis for their selection and validation status is described. If measurement data are used, the quality of the data is discussed. The strengths and weaknesses of the particular methods used to quantify exposure and dose are described, along with comparison and contrast to alternate methods, if appropriate.

In presenting the exposure and dose estimates, the important sources, pathways, and routes of exposure are identified and quantified, and reasons for excluding any from the assessment are discussed.

A variety of risk descriptors, and where possible, the full population distribution is presented. Risk managers should be given some sense of how exposure is distributed over the population and how variability in population activities influences this distribution. Ideally, the exposure characterization links the purpose of the assessment with specific risk descriptors, which in turn are presented in such a way as to facilitate construction of a risk characterization.

A discussion of the quality of the exposure and dose estimates is critical to the credibility of the assessment. This may be based in part on a quantitative uncertainty analysis, but the exposure characterization must explain the results of any such analysis in terms of the degree of confidence to be placed in the estimates and conclusions drawn.

Finally, a description of additional research and data needed to improve the exposure assessment is often helpful to risk managers in making decisions about improving the quality of the assessment. For this reason, the exposure characterization should identify key data gaps that can help

the true measure lies, with specified statistical confidence. The upper bound confidence limit is the higher of the two ends of the confidence interval.

focus further efforts to reduce uncertainty.

Additional guidance on communicating the results of an exposure assessment can be found in the proceedings of a recent workshop on risk communication (American Industrial Health Council, 1989).

7.1.2. Risk Characterization

Most exposure assessments will be done as part of a risk assessment, and the exposure characterization must be useful to the risk assessor in constructing a risk characterization. Risk characterization is the integration of information from hazard identification, dose-response assessment, and exposure assessment into a coherent picture. A risk characterization is a necessary part of any Agency report on risk whether the report is a preliminary one prepared to support allocation of resources toward further study or a comprehensive one prepared to support regulatory decisions.

Risk characterization is the culmination of the risk assessment process. In this final step, the risk characterization:

- Integrates the individual characterizations from the hazard identification, dose-response, and exposure assessments;
- Provides an evaluation of the overall quality of the assessment and the degree of confidence the authors have in the estimates of risk and conclusions drawn;
- Describes risks to individuals and populations in terms of extent and severity of probable harm; and
- Communicates results of the risk assessment to the risk manager.

It provides a scientific interpretation of the assessment. The risk manager can then use the risk assessment, along with other risk management elements, to make public health decisions. The following sections describe these four aspects of the risk characterization in more detail.

7.1.2.1. Integration of Hazard Identification, Dose-Response, and Exposure Assessments

In developing the hazard identification, dose-response, and exposure portions of the risk assessment, the assessor makes many judgments concerning the relevance and appropriateness of data and methodology. These judgments are summarized in the individual characterizations for hazard identification, dose-response, and exposure. In integrating the parts of the assessment, the risk assessor

determines if some of these judgments have implications for other parts of the assessment, and whether the parts of the assessment are compatible. For example, if the hazard identification assessment determines that a chemical is a developmental toxicant but not a carcinogen, the dose-response and exposure information is presented accordingly; this differs greatly from the way the presentation is made if the chemical is a carcinogen but not a developmental toxicant.

The risk characterization not only examines these judgments, but also explains the constraints of available data and the state of knowledge about the phenomena studied in making them, including:

- The qualitative, weight-of-evidence conclusions about the likelihood that the chemical may pose a specific hazard (or hazards) to human health, the nature and severity of the observed effects, and by what route(s) these effects are seen to occur. These judgments affect both the dose-response and exposure assessments;
- For noncancer effects, a discussion of the dose-response behavior of the critical effect(s), data such as the shapes and slopes of the dose-response curves for the various other toxic endpoints, and how this information was used to determine the appropriate dose-response assessment technique; and
- The estimates of the magnitude of the exposure, the route, duration and pattern of the exposure, relevant pharmacokinetics, and the number and characteristics of the population exposed. This information must be compatible with both the hazard identification and dose-response assessments.

The presentation of the integrated results of the assessment draws from and highlights key points of the individual characterizations of hazard, dose-response, and exposure analysis performed separately under these Guidelines. The summary integrates these component characterizations into an overall risk characterization.

7.1.2.2. Quality of the Assessment and Degree of Confidence

The risk characterization summarizes the data brought together in the analysis and the reasoning upon which the assessment is based. The description also conveys the major strengths and weaknesses of the assessment that arise from data availability and the current limits of understanding of toxicity mechanisms.

Confidence in the results of a risk assessment is consequently a function of confidence in the results of analysis of

each element: hazard, dose-response, and exposure. Each of these three elements has its own characterization associated with it. For example, the exposure assessment component includes an exposure characterization. Within each characterization, the important uncertainties of the analysis and interpretation of data are explained so that the risk manager is given a clear picture of any consensus or lack thereof about significant aspects of the assessment. For example, whenever more than one view of dose-response assessment is supported by the data and by the policies of these Guidelines, and choosing between them is difficult, the views are presented together. If one has been selected over another, the rationale is given; if not, then both are presented as plausible alternatives.

If a quantitative uncertainty analysis is appropriate, it is summarized in the risk characterization; in any case a qualitative discussion of important uncertainties is appropriate. If other organizations, such as other Federal agencies, have published risk assessments, or prior EPA assessments have been done on the substance or an analogous substance and have relevant similarities or differences, these too are described.

7.1.2.3. Descriptors of Risk

There are a number of different ways to describe risk in quantitative or qualitative terms. Section 2.3 explains how risk descriptors are used. It is important to explain what aspect of the risk is being described, and how the exposure data and estimates are used to develop the particular descriptor.

7.1.2.4. Communicating Results of a Risk Assessment to the Risk Manager

Once the risk characterization is completed, the focus turns to communicating results to the risk manager. The risk manager uses the results of the risk characterization, technologic factors, and socioeconomic considerations in reaching a regulatory decision. Because of the way these risk management factors may impact different cases, consistent, but not necessarily identical, risk management decisions must be made on a case-by-case basis. Consequently, it is entirely possible and appropriate that a chemical with a specific risk characterization may be regulated differently under different statutes. These Guidelines are not intended to give guidance on the nonscientific aspects of risk management decisions.

7.1.3. Establishing the Communication Strategy

For assessments that must be explained to the general public, a communication strategy is often required. Although risk communication is often considered a part of risk management, it involves input from the exposure and risk assessors; early planning for a communication strategy can be very helpful to the ultimate risk communication.

The EPA has guidance on preparing communication strategies (U.S. EPA, 1988g). Additional sources of information are the New Jersey Department of Environmental Protection (1988a, 1988b) and the NRC (1989b). These documents, and the sources listed within them, are valuable resources for all who will be involved with the sensitive issues of explaining environmental health risks. The NRC (1989b, p. 148) states:

"It is a mistake to simply consider risk communication to be an add-on activity for either scientific or public affairs staffs; both elements should be involved. There are clear dangers if risk messages are formulated ad hoc by public relations personnel in isolation from available technical expertise; neither can they be prepared by risk analysts as a casual extension of their analytic duties."

7.2. Format for Exposure Assessment Reports

The Agency does not require a set format for exposure assessment reports, but individual program offices within the Agency may have specific format requirements. Section 3 illustrates that exposure assessments are performed for a variety of purposes, scopes, and levels of detail, and use a variety of approaches. While it is impractical for the Agency to specify an outline format for all types of assessments being performed within the Agency, program offices are encouraged to use consistent formats for similar types of assessments within their own purview.

All exposure assessments must, at a minimum, contain a narrative exposure characterization section that contains the types of information discussed in section 7.1. For the purpose of consistency, this section should be titled exposure characterization. Placement of this section within the assessment is optional, but it is strongly suggested that it be prominently featured in the assessment. It is not, however, an executive summary and should not be used interchangeably with one.

7.3. Reviewing Exposure Assessments

This section provides some suggestions on how to effectively review an exposure assessment and highlights some of the common pitfalls. The emphasis in these Guidelines has been on how to properly conduct exposure assessments; this section can serve as a final checklist in reviewing the completed assessment. An exposure assessor also may be called upon to critically review and evaluate exposure assessments conducted by others; these suggestions should be helpful in this regard.

Reviewers of exposure assessments are usually asked to identify inconsistencies with the underlying science and with Agency-developed guidelines, factors, and methodologies, and to determine the effect these inconsistencies might have on the results and conclusions of the exposure assessment. Often the reviewer can only describe whether these inconsistencies or deficiencies might underestimate or overestimate exposure.

Some of the questions a reviewer should ask to identify the more common pitfalls that tend to underestimate exposure are:

Has the pathways analysis been broad enough to avoid overlooking a significant pathway?

For example, in evaluating exposure to soil contaminated with PCBs, the exposure assessment should not be limited only to evaluating the dermal contact pathway. Other pathways, such as inhalation of dust and vapors or the ingestion of contaminated gamefish from an adjacent stream receiving surface runoff containing contaminated soil, should also be evaluated as they could contribute higher levels of exposure from the same source.

Have all the contaminants of concern in a mixture been evaluated?

Since risks resulting from exposures to complex mixtures of chemicals with the same mode of toxic action are generally treated as additive (by summing the risks) in a risk assessment, failure to evaluate one or more of the constituents would neglect its contribution to the total exposure and risk. This is especially critical for relatively toxic or potent chemicals that tend to drive risk estimates even when present in relatively low quantities.

Have exposure levels or concentration measurements been compared with appropriate background levels?

Contaminant concentrations or exposure levels should not be compared with other contaminated media or exposed populations. When comparing

with background levels, the exposure assessor must determine whether these concentrations or exposure levels are also affected by contamination from anthropogenic activities.

Were the detection limits sensitive enough to make interpretations about exposures at levels corresponding to health concerns? Were the data interpreted correctly?

Because values reported as not detected (ND) mean only that the chemical of interest was not found at the particular detection limit used in the laboratory analysis, ND does not rule out the possibility that the chemical may be present in significant concentrations. Depending on the purpose and the degree of conservatism warranted in the exposure assessment, results reported as ND should be handled as discussed in Section 5.

Has the possibility of additive pathways been considered for the population being studied?

If the purpose of the exposure assessment is to evaluate the total exposure and risk of a population, then exposures from individual pathways within the same route may be summed in cases which concurrent exposures can realistically be expected to occur.

Some questions a reviewer should ask to avoid the more prevalent errors that generally tend to overestimate exposure are:

Have unrealistically conservative exposure parameters been used in the scenarios?

The exposure assessor must conduct a reality check to ensure that the exposure cases used in the scenario(s) (except bounding estimates) could actually occur.

Have potential exposures been presented as existing exposures?

In many situations, especially when the scenario evaluation approach is used, the objective of the assessment is to estimate potential exposures. (That is, if a person were to be exposed to these chemicals under these conditions, then the resultant exposure would be this much.) In determining the need and urgency for regulatory action, risk managers often weigh actual exposures more heavily than higher levels of potential exposures. Therefore, the exposure assessment should clearly note whether the results represent actual or potential exposures.

Have exposures derived from "not detected" levels been presented as actual exposures?

For some exposure assessments it may be appropriate to assume that a chemical reported as not detected is present at either the detection limit or

one-half the detection limit. The exposure estimates derived from these nondetects, however, should be clearly labeled as hypothetical since they are based on the conservative assumption that chemicals are present at or below the detection limit, when, in fact, they may not be present at all. Exposures, doses, or risks estimated from data using substituting values of detection limits for "not detected" samples must be reported as "less than" the resulting exposure, dose, or risk estimate.

Questions a reviewer should ask to identify common errors that may underestimate or overestimate exposure are:

Are the results presented with an appropriate number of significant figures?

The number of significant figures should reflect the uncertainty of the numeric estimate. If the likely range of the results spans several orders of magnitude, then using more than one significant figure implies more confidence in the results than is warranted.

Have the calculations been checked for computational errors?

Obviously, calculations should be checked for arithmetic errors and mistakes in converting units. This is overlooked more often than one might expect.

Are the factors for intake rates, etc. used appropriately?

Exposure factors should be checked to ensure that they correspond to the site or situation being evaluated.

Have the uncertainties been adequately addressed?

Exposure assessment is an inexact science, and the confidence in the results may vary tremendously. It is essential the exposure assessment include an uncertainty assessment that places these uncertainties in perspective.

If Monte Carlo simulations were used, were correlations among input distributions known and properly accounted for? Is the maximum value simulated by this method in fact a bounding estimate? Was Monte Carlo simulation necessary?

(A Monte Carlo simulation randomly selects the values from the input parameters to simulate an individual. If data already exist to show the relationship between variables for the actual individuals, it makes little sense to use Monte Carlo simulation, since one already has the answer to the question of how the variables are related for each individual. A simulation is unnecessary.)

8. Glossary of Terms

Absorbed dose—See internal dose.

Absorption barrier—Any of the exchange barriers of the body that allow differential diffusion of various substances across a boundary. Examples of absorption barriers are the skin, lung tissue, and gastrointestinal tract wall.

Accuracy—The measure of the correctness of data, as given by the difference between the measured value and the true or standard value.

Administered dose—The amount of a substance given to a test subject (human or animal) in determining dose-response relationships, especially through ingestion or inhalation. In exposure assessment, since exposure to chemicals is usually inadvertent, this quantity is called potential dose.

Agent—A chemical, physical, mineralogical, or biological entity that may cause deleterious effects in an organism after the organism is exposed to it.

Ambient—The conditions surrounding a person, sampling location, etc.

Ambient measurement—A measurement (usually of the concentration of a chemical or pollutant) taken in an ambient medium, normally with the intent of relating the measured value to the exposure of an organism that contacts that medium.

Ambient medium—One of the basic categories of material surrounding or contacting an organism, e.g., outdoor air, indoor air, water, or soil, through which chemicals or pollutants can move and reach the organism. (See also biological medium, environmental medium)

Applied dose—The amount of a substance in contact with the primary absorption boundaries of an organism (e.g., skin, lung, gastrointestinal tract) and available for absorption.

Arithmetic mean—The sum of all the measurements in a data set divided by the number of measurements in the data set.

Background level (environmental)—The concentration of substance in a defined control area during a fixed period of time before, during, or after a data-gathering operation.

Breathing zone—A zone of air in the vicinity of an organism from which respired air is drawn. Personal monitors are often used to measure pollutants in the breathing zone.

Bias—A systematic error inherent in a method or caused by some feature of the measurement system.

Bioavailability—The state of being capable of being absorbed and available to interact with the metabolic processes of an organism. Bioavailability is typically a function of chemical properties, physical state of the material to which an organism is exposed, and

the ability of the individual organism to physiologically take up the chemical.

Biological marker of exposure (sometimes referred to as a biomarker of exposure)—Exogenous chemicals, their metabolites, or products of interactions between a xenobiotic chemical and some target molecule or cell that is measured in a compartment within an organism.

Biological measurement—A measurement taken in a biological medium. For the purpose of exposure assessment via reconstruction of dose, the measurement is usually of the concentration of a chemical/metabolite or the status of a biomarker, normally with the intent of relating the measured value to the internal dose of a chemical at some time in the past. (Biological measurements are also taken for purposes of monitoring health status and predicting effects of exposure.) (See also ambient measurement)

Biological medium—One of the major categories of material within an organism, e.g., blood, adipose tissue, or breath, through which chemicals can move, be stored, or be biologically, physically, or chemically transformed. (See also ambient medium, environmental medium)

Biologically effective dose—The amount of a deposited or absorbed chemical that reaches the cells or target site where an adverse effect occurs, or where that chemical interacts with a membrane surface.

Blank (blank sample)—An unexposed sampling medium, or an aliquot of the reagents used in an analytical procedure, in the absence of added analyte. The measured value of a blank sample is the blank value.

Body burden—The amount of a particular chemical stored in the body at a particular time, especially a potentially toxic chemical in the body as a result of exposure. Body burdens can be the result of long-term or short-term storage, for example, the amount of a metal in bone, the amount of a lipophilic substance such as PCB in adipose tissue, or the amount of carbon monoxide (as carboxyhemoglobin) in the blood.

Bounding estimate—An estimate of exposure, dose, or risk that is higher than that incurred by the person in the population with the highest exposure, dose, or risk. Bounding estimates are useful in developing statements that exposures, doses, or risks are "not greater than" the estimated value.

Comparability—The ability to describe likenesses and differences in the quality and relevance of two or more data sets.

Data quality objectives (DQO)—Qualitative and quantitative statements of the overall level of uncertainty that a decision-maker is willing to accept in results or decisions derived from environmental data. DQOs provide the statistical framework for planning and managing environmental data operations consistent with the data user's needs.

Dose—The amount of a substance available for interaction with metabolic processes or biologically significant receptors after crossing the outer boundary of an organism. The potential dose is the amount ingested, inhaled, or applied to the skin. The applied dose is the amount of a substance presented to an absorption barrier and available for absorption (although not necessarily having yet crossed the outer boundary of the organism). The absorbed dose is the amount crossing a specific absorption barrier (e.g., the exchange boundaries of skin, lung, and digestive tract) through uptake processes. Internal dose is a more general term denoting the amount absorbed without respect to specific absorption barriers or exchange boundaries. The amount of the chemical available for interaction by any particular organ or cell is termed the delivered dose for that organ or cell.

Dose rate—Dose per unit time, for example in mg/day, sometimes also called dosage. Dose rates are often expressed on a per-unit-body-weight basis, yielding units such as mg/kg/day (mg/kg-day). They are also often expressed as averages over some time period, for example a lifetime.

Dose-response assessment—The determination of the relationship between the magnitude of administered, applied, or internal dose and a specific biological response. Response can be expressed as measured or observed incidence, percent response in groups of subjects (or populations), or the probability of occurrence of a response in a population.

Dose-response curve—A graphical representation of the quantitative relationship between administered, applied, or internal dose of a chemical or agent, and a specific biological response to that chemical or agent.

Dose-response relationship—The resulting biological responses in an organ or organism expressed as a function of a series of different doses.

Dosimeter—Instrument to measure dose; many so-called dosimeters actually measure exposure rather than dose.

Dosimetry—Process of measuring or estimating dose.

Ecological exposure—Exposure of a nonhuman receptor or organism to a

chemical, or a radiological or biological agent.

Effluent—Waste material being discharged into the environment, either treated or untreated. Effluent generally is used to describe water discharges to the environment, although it can refer to stack emissions or other material flowing into the environment.

Environmental fate—The destiny of a chemical or biological pollutant after release into the environment.

Environmental fate involves temporal and spatial considerations of transport, transfer, storage, and transformation.

Environmental fate model—In the context of exposure assessment, any mathematical abstraction of a physical system used to predict the concentration of specific chemicals as a function of space and time subject to transport, intermedia transfer, storage, and degradation in the environment.

Environmental medium—One of the major categories of material found in the physical environment that surrounds or contacts organisms, e.g., surface water, ground water, soil, or air, and through which chemicals or pollutants can move and reach the organisms. (See ambient medium, biological medium)

Exposure—Contact of a chemical, physical, or biological agent with the outer boundary of an organism. Exposure is quantified as the concentration of the agent in the medium in contact integrated over the time duration of that contact.

Exposure assessment—The determination or estimation (qualitative or quantitative) of the magnitude, frequency, duration, and route of exposure.

Exposure concentration—The concentration of a chemical in its transport or carrier medium at the point of contact.

Exposure pathway—The physical course a chemical or pollutant takes from the source to the organism exposed.

Exposure route—The way a chemical or pollutant enters an organism after contact, e.g., by ingestion, inhalation, or dermal absorption.

Exposure scenario—A set of facts, assumptions, and inferences about how exposure takes place that aids the exposure assessor in evaluating, estimating, or quantifying exposures.

Fixed-location monitoring—Sampling of an environmental or ambient medium for pollutant concentration at one location continuously or repeatedly over some length of time.

Geometric mean—The n th root of the product of n values.

Guidelines—Principles and procedures to set basic requirements for

general limits of acceptability for assessments.

Hazard identification—A description of the potential health effects attributable to a specific chemical or physical agent. For carcinogen assessments, the hazard identification phase of a risk assessment is also used to determine whether a particular agent or chemical is, or is not, causally linked to cancer in humans.

High-end exposure (dose) estimate—A plausible estimate of individual exposure or dose for those persons at the upper end of an exposure or dose distribution, conceptually above the 90th percentile, but not higher than the individual in the population who has the highest exposure or dose.

High-end Risk Descriptor—A plausible estimate of the individual risk for those persons at the upper end of the risk distribution, conceptually above the 90th percentile but not higher than the individual in the population with the highest risk. Note that persons in the high end of the risk distribution have high risk due to high exposure, high susceptibility, or other reasons, and therefore persons in the high end of the exposure or dose distribution are not necessarily the same individuals as those in the high end of the risk distribution.

Intake—The process by which a substance crosses the outer boundary of an organism without passing an absorption barrier, e.g., through ingestion or inhalation. (See also potential dose)

Internal dose—The amount of a substance penetrating across the absorption barriers (the exchange boundaries) of an organism, via either physical or biological processes. For the purpose of these Guidelines, this term is synonymous with absorbed dose.

Limit of detection (LOD) [or Method detection limit (MDL)]—The minimum concentration of an analyte that, in a given matrix and with a specific method, has a 99% probability of being identified, qualitatively or quantitatively measured, and reported to be greater than zero.

Matrix—A specific type of medium (e.g., surface water, drinking water) in which the analyte of interest may be contained.

Maximally exposed individual (MEI)—The single individual with the highest exposure in a given population (also, most exposed individual). This term has historically been defined various ways, including as defined here and also synonymously with worst case or bounding estimate. Assessors are cautioned to look for contextual

definitions when encountering this term in the literature.

Maximum exposure range—A semiquantitative term referring to the extreme uppermost portion of the distribution of exposures. For consistency, this term (and the dose or risk analogues) should refer to the portion of the individual exposure distribution that conceptually falls above about the 98th percentile of the distribution, but is not higher than the individual with the highest exposure.

Median value—The value in a measurement data set such that half the measured values are greater and half are less.

Microenvironment method—A method used in predictive exposure assessments to estimate exposures by sequentially assessing exposure for a series of areas (microenvironments) that can be approximated by constant or well-characterized concentrations of a chemical or other agent.

Microenvironments—Well-defined surroundings such as the home, office, automobile, kitchen, store, etc. that can be treated as homogeneous (or well characterized) in the concentrations of a chemical or other agent.

Mode—The value in the data set that occurs most frequently.

Monte Carlo technique—A repeated random sampling from the distribution of values for each of the parameters in a generic (exposure or dose) equation to derive an estimate of the distribution of (exposures or doses in) the population.

Nonparametric statistical methods—Methods that do not assume a functional form with identifiable parameters for the statistical distribution of interest (distribution-free methods).

Pathway—The physical course a chemical or pollutant takes from the source to the organism exposed.

Personal measurement—A measurement collected from an individual's immediate environment using active or passive devices to collect the samples.

Pharmacokinetics—The study of the time course of absorption, distribution, metabolism, and excretion of a foreign substance (e.g., a drug or pollutant) in an organism's body.

Point-of-contact measurement of exposure—An approach to quantifying exposure by taking measurements of concentration over time at or near the point of contact between the chemical and an organism while the exposure is taking place.

Potential dose—The amount of a chemical contained in material ingested, air breathed, or bulk material applied to the skin.

Precision—A measure of the reproducibility of a measured value under a given set of conditions.

Probability samples—Samples selected from a statistical population such that each sample has a known probability of being selected.

Quality assurance (QA)—An integrated system of activities involving planning, quality control, quality assessment, reporting and quality improvement to ensure that a product or service meets defined standards of quality with a stated level of confidence.

Quality control (QC)—The overall system of technical activities whose purpose is to measure and control the quality of a product or service so that it meets the needs of the users. The aim is to provide quality that is satisfactory, adequate, dependable, and economical.

Quantification limit (QL)—The concentration of analyte in a specific matrix for which the probability of producing analytical values above the method detection limit is 99%.

Random samples—Samples selected from a statistical population such that each sample has an equal probability of being selected.

Range—The difference between the largest and smallest values in a measurement data set.

Reasonable worst case—A semiquantitative term referring to the lower portion of the high end of the exposure, dose, or risk distribution. The reasonable worst case has historically been loosely defined, including synonymously with maximum exposure or worst case, and assessors are cautioned to look for contextual definitions when encountering this term in the literature. As a semiquantitative term, it is sometimes useful to refer to individual exposures, doses, or risks that, while in the high end of the distribution, are not in the extreme tail. For consistency, it should refer to a range that can conceptually be described as above the 90th percentile in the distribution, but below about the 98th percentile. (compare maximum exposure range, worst case). *

Reconstruction of dose—An approach to quantifying exposure from internal dose, which is in turn reconstructed after exposure has occurred, from evidence within an organism such as chemical levels in tissues or fluids or from evidence of other biomarkers of exposure.

Representativeness—The degree to which a sample is, or samples are, characteristic of the whole medium, exposure, or dose for which the samples are being used to make inferences.

Risk—The probability of deleterious health or environmental effects.

Risk characterization—The description of the nature and often the magnitude of human or nonhuman risk, including attendant uncertainty.

Route—The way a chemical or pollutant enters an organism after contact, e.g., by ingestion, inhalation, or dermal absorption.

Sample—A small part of something designed to show the nature or quality of the whole. Exposure-related measurements are usually samples of environmental or ambient media, exposures of a small subset of a population for a short time, or biological samples, all for the purpose of inferring the nature and quality of parameters important to evaluating exposure.

Sampling frequency—The time interval between the collection of successive samples.

Sampling plan—A set of rules or procedures specifying how a sample is to be selected and handled.

Scenario evaluation—An approach to quantifying exposure by measurement or estimation of both the amount of a substance contacted, and the frequency/duration of contact, and subsequently linking these together to estimate exposure or dose.

Source characterization measurements—Measurements made to characterize the rate of release of agents into the environment from a source of emission such as an incinerator, landfill, industrial or municipal facility, consumer product, etc.

Standard operating procedure (SOP)—A procedure adopted for repetitive use when performing a specific measurement or sampling operation.

Statistical control—The process by which the variability of measurements or of data outputs of a system is controlled to the extent necessary to produce stable and reproducible results. To say that measurements are under statistical control means that there is statistical evidence that the critical variables in the measurement process are being controlled to such an extent that the system yields data that are reproducible within well-defined limits.

Statistical significance—An inference that the probability is low that the observed difference in quantities being measured could be due to variability in the data rather than an actual difference in the quantities themselves. The inference that an observed difference is statistically significant is typically based on a test to reject one hypothesis and accept another.

Surrogate data—Substitute data or measurements on one substance used to

estimate analogous or corresponding values of another substance.

Uptake—The process by which a substance crosses an absorption barrier and is absorbed into the body.

Worst case—A semiquantitative term referring to the maximum possible exposure, dose, or risk, that can conceivably occur, whether or not this exposure, dose, or risk actually occurs or is observed in a specific population. Historically, this term has been loosely defined in an ad hoc way in the literature, so assessors are cautioned to look for contextual definitions when encountering this term. It should refer to a hypothetical situation in which everything that can plausibly happen to maximize exposure, dose, or risk does in fact happen. This worst case may occur (or even be observed) in a given population, but since it is usually a very unlikely set of circumstances, in most cases, a worst-case estimate will be somewhat higher than occurs in a specific population. As in other fields, the worst-case scenario is a useful device when low probability events may result in a catastrophe that must be avoided even at great cost, but in most health risk assessments, a worst-case scenario is essentially a type of bounding estimate.

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- Part B: Response to Public and Science Advisory Board Comments**
- 1. Introduction**
- This section summarizes the major issues raised in public comments on the Proposed Guidelines for Exposure-Related Measurements (hereafter "1988 Proposed Guidelines") published December 2, 1988 (53 FR 48830-48853). In addition to general comments, reviewers were requested to comment specifically on the guidance for interpreting contaminated blanks versus field data, the interpretation of data at or near the limit of detection, approaches to assessing uncertainty, and the Glossary of Terms. Comment was also invited on the following questions: Should the 1988 Proposed Guidelines be combined with the 1986 Guidelines for Estimating Exposures (hereafter "1986 Guidelines")? Is the current state-of-the-art in making measurements of population activities for the purpose of exposure assessment advanced to the point where the Agency can construct guidelines in this area? Given that EPA Guidelines are not protocols or detailed literature reviews, is the level of detail useful and appropriate, especially in the area of statistics?
- The Science Advisory Board (SAB) met on December 2, 1988, and provided written comments in a May, 1989 letter to the EPA Administrator (EPA-SAB-EETFC-89-020). The public comment period extended until March 2, 1989. Comments were received from 17 individuals or organizations.
- After the SAB and public comment, Agency staff prepared summaries of the comments and analyses of major issues presented by the commentors. These were considered in the development of these final Guidelines. In response to the comments, the Agency has modified or clarified most of the sections of the Guidelines. For the purposes of this discussion, only the most significant issues reflected by the public and SAB comments are discussed. Several minor recommendations, which do not warrant discussion here, were considered and adopted by the Agency in the revision of these Guidelines.
- The EPA revised the 1988 Proposed Guidelines in accordance with the public and SAB comments, retitling them Guidelines for Exposure Assessment (hereafter "Guidelines"). The Agency presented the draft final Guidelines to the SAB at a public meeting on September 12, 1991, at which time the SAB invited public comment for a period of 30 days on the draft. The SAB discussed the final draft in a January 13, 1992 letter to the Administrator of the EPA (EPA-SAB-IAQC-92-015). There were no additional public comments received.
- 2. Response to General Comments**
- In general, the reviewers were complementary regarding the overall quality of the 1988 Proposed Guidelines. Several reviewers requested that the

Agency better define the focus and intended audiences and refine the Guidelines with regard to treatment of nonhuman exposure. The Agency has refined its approach and coverage in these Guidelines. Although these Guidelines deal specifically with human exposures to chemicals, additional supplemental guidance may be developed for ecological exposures, and exposures to biological or radiological entities. The Agency is currently developing separate guidelines for ecological risk assessment.

Concerns were expressed about the Agency's use of the terms exposure and dose. Consequently, the Agency reviewed its definitions and uses of these terms and evaluated their use elsewhere in the scientific community. The Agency has changed its definitions and uses of these terms from that in both the 1986 Guidelines and the 1988 Proposed Guidelines. It is believed that the definitions contained in the current Guidelines are now in concert with the definitions suggested by the National Academy of Sciences and others in the scientific field.

Many reviewers urged the Agency to be more explicit in its recommendations regarding uncertainty in statistics, limits of detection, censored data sets, and the use of models. Some reviewers felt the level of detail was appropriate for statistical uncertainty while others wanted additional methods for dealing with censored data. Several commended the Agency for its acknowledgement of uncertainty in exposure assessments and the call for its explicit description in all exposure assessments, while others expressed concern for lack of acknowledgement of model uncertainty. Accordingly, these areas have been revised and an entire section has been devoted to uncertainty. We agree with the reviewers that much more work remains to be done in this area, particularly with evaluating overall exposure assessment uncertainty, not only with models but also with the distributions of exposure parameters. The Agency may issue additional guidance in this area in the future.

Some reviewers submitted extensive documentation regarding detection limits and statistical representations. Several submitted comments arguing against data reporting conventions that result in censored data sets and recommended that the Agency issue a guidance document for establishing total system detection limits. The Agency found the documentation to be helpful and has revised the sections of the Guidelines accordingly. Unfortunately, several of the other suggestions go beyond the scope of this document.

The reviewers generally commented that the glossary was useful, presenting many technical terms and defining them in an appropriate manner. The glossary has been expanded to include the key terms used in the Guidelines, while at the same time correcting some definitions that were inconsistent or unclear. In particular, the definitions for exposure and dose have been revised.

3. Response to Comments on the Specific Questions

3.1. Should the 1988 Proposed Guidelines Be combined with the 1986 Guidelines?

The SAB and several other commentators recommended that the 1986 Guidelines and the 1988 Proposed Guidelines be combined into an integrated document. The Agency agrees with this recommendation and has made an effort to produce a single guideline that progresses logically from start to finish. This was accomplished through an extensive reformatting of the two sets of guidelines as an integrated document, rather than a simple joining together of the previous versions.

In integrating the two previous guidelines, the Agency has revised and updated the section in the 1986 Guidelines that suggests an outline for an exposure assessment. A more complete section (section 7 of the current Guidelines) now discusses how assessments should be presented and suggests a series of points to consider in reviewing assessments.

The Agency has also expanded the section in the 1986 Guidelines that discussed exposure scenarios, partly by

incorporating material from the 1988 Proposed Guidelines, and partly as a result of comments requesting clarification of the appropriate use of certain types of scenario (e.g., "worst case"). Section 5.3 of the current Guidelines extensively discusses the appropriateness of using various scenarios, estimates, and risk descriptors, and defines certain scenario-related terms for use in exposure assessments.

3.2. Is the Current State-of-the-Art in Making Measurements of Population Activities for the Purpose of Exposure Assessment Advanced to the Point Where the Agency Can Construct Guidelines in This Area?

Both the SAB and public comments recommended the inclusion of demographics, population dynamics, and population activity patterns in the exposure assessment process. In response, the Agency has included additional discussion on use of activity patterns in the current Guidelines, while recognizing that more research has to be done in this area.

3.3. Is the Level of Detail of the Guidelines Useful and Appropriate, Especially in the Area of Statistics?

As might be expected, there was no clear consensus of opinion on what constitutes appropriate coverage. Regarding quality assurance (QA) and quality control (QC), it was felt that a strong statement on the need for QA/QC followed by reference to appropriate EPA documents was a suitable level of detail. Statistical analyses, sampling issues, limit of detection, and other analytical issues all elicited many thoughtful comments. Where the recommendations did not exceed the scope of the document or the role of EPA, the Agency has attempted to blend the various recommendations into the current Guidelines. In all these areas, therefore, the previous sections have been revised in accordance with comments.

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**Friday
May 29, 1992**

Part VII

Department of Agriculture

Forest Service

36 CFR Part 242

Department of the Interior

Fish and Wildlife Service

50 CFR Part 100

**Subsistence Management Regulations for
Public Lands in Alaska; Final Rule**

DEPARTMENT OF AGRICULTURE**Forest Service****36 CFR Part 242****DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 100**

RIN 1018-AB43

Subsistence Management Regulations for Public Lands in Alaska, Subparts A, B, and C

AGENCY: Forest Service, Department of Agriculture. Fish and Wildlife Service, Department of the Interior.

ACTION: Final rule.

SUMMARY: This rule promulgates regulations governing administration of subsistence taking of fish and wildlife on public lands in Alaska. This rule implements the subsistence priority for rural Alaska residents under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA). It replaces the Temporary Subsistence Management Regulations for Public Lands in Alaska, which expire on June 30, 1992.

EFFECTIVE DATE: July 1, 1992.

FOR FURTHER INFORMATION CONTACT: Richard S. Pospahala, Office of Subsistence Management, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 786-3447. For questions specific to National Forest system lands, contact Norman R. Howse, Assistant Director Subsistence, USDA, Forest Service, Alaska Region, P.O. Box 21628, Juneau, Alaska 99802-1628; telephone (907) 586-8890.

SUPPLEMENTARY INFORMATION:**Background**

Title VIII of ANILCA (16 U.S.C. 3111-3126) requires the Secretary of the Interior and the Secretary of Agriculture (Secretaries) to implement a joint Federal Subsistence Management Program (FSMP) to grant a priority for subsistence uses of fish and wildlife resources on public lands in Alaska, unless the State of Alaska enacts and implements laws of general applicability consistent with sections 803, 804, and 805 of ANILCA. To be consistent with sections 803, 804, and 805 of ANILCA, the State's laws of general applicability must confine the preference for subsistence uses to those subsistence uses engaged in by rural Alaska residents. Until recently, the State managed the subsistence program on

public lands pursuant to section 805 of ANILCA. In December 1989, the Alaska Supreme Court ruled in *McDowell v. State of Alaska* that the rural preference found in the State subsistence statute violated the Alaska Constitution. The effect of this ruling required the State to delete the rural preference from its subsistence statute, and therefore, the State subsistence statute failed to comply with Title VIII of ANILCA. The Court stayed the effect of the *McDowell* decision until July 1, 1990.

Consequently, the Secretaries assumed responsibility for the implementation of Title VIII of ANILCA on July 1, 1990. On June 29, 1990, the "Temporary Subsistence Management Regulations for Public Lands in Alaska, Final Temporary Rule" were published in the *Federal Register* (55 FR 27114-27170). The temporary regulations defined and implemented a program approved by the Secretaries and administered by the Federal Subsistence Board (Board). Under the temporary regulations, the Secretary of the Interior with the concurrence of the Secretary of Agriculture appointed the Board Chair. Other members of the Board include the Alaska Regional Director, U.S. Fish and Wildlife Service; the Alaska Regional Director, National Park Service; the Alaska State Director, Bureau of Land Management; the Alaska Area Director, Bureau of Indian Affairs; and the Alaska Regional Forester, USDA Forest Service. These agencies participated in the development of the temporary regulations. In addition, all Board members have reviewed this final rule and concur in its publication. Because this final rule relates to public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text will be incorporated into 36 CFR part 242 and 50 CFR part 100.

Summary of Comments

The proposed rule for Subsistence Management Regulations on Federal Public Lands in Alaska, subparts A, B, and C (57 FR 3676-3687, January 30, 1992) afforded the public a comment period of 45 days to address issues and language included therein. During the comment period, public meetings were held in Alaska in Anchorage, Barrow, Bethel, Dillingham, Fairbanks, Kodiak, Kotzebue, Naknek, Nome, and Sitka. In addition to comments offered during this comment period, comments received at 42 public hearings held for discussion regarding the draft Environmental Impact Statement (EIS), and at six public hearings on subpart D, were considered. The public submitted a total

of 446 written comments and 200 oral comments.

Analysis of Comments**Section 1 Purpose**

No comments were received on this section.

Section 2 Authority

Several commentors questioned the need for any regulation of subsistence taking of fish and wildlife. Title VIII of ANILCA provides for the continuation of the opportunities for subsistence uses, by rural Alaska residents, consistent with maintaining healthy fish and wildlife populations. The Secretaries' responsibilities are thus two-fold: To conserve healthy fish and wildlife populations and to ensure that non-wasteful subsistence uses of fish and wildlife populations are accorded priority over other consumptive uses on public lands. Section 814 of ANILCA requires the Secretaries to prescribe regulations as necessary to carry out these responsibilities. In accordance with the mandate of Title VIII of ANILCA, it is the intent of the Secretaries to regulate subsistence taking of fish and wildlife in such a way as to cause the least adverse impact possible on subsistence users.

It also was suggested that the regulations should not apply in cases of dire need. Emergency taking of wildlife in life-threatening situations is governed under State regulations; such taking is not prohibited under FSMP regulations.

Another commentor declared that management of fish and wildlife should only fall under the State's administration. The Secretaries agree that it is preferable for the State of Alaska to manage the subsistence taking and use of fish and wildlife. However, if the State regulatory regime is inconsistent with sections 803, 804, and 805 of ANILCA, then the Secretaries must establish a regulatory regime for public lands that meets those requirements. At this time, the State does not have a law of general applicability that is consistent with the title VIII requirement to grant a subsistence priority to residents of rural areas. As long as the State fails to satisfy section 805 of ANILCA, and as long as the rural preference is required by title VIII of ANILCA, the Secretaries must regulate subsistence taking and use of fish and wildlife on public lands. However, the regulations do provide for the State to reacquire the responsibility for managing subsistence taking of fish and wildlife on public lands.

Section 3 Applicability and Scope

Several commentors objected to the prohibition against subsistence taking in Glacier Bay National Park and Katmai National Park. Title II of ANILCA specifies the National Park Service areas in which subsistence uses are authorized. Title II does not authorize subsistence uses in Glacier Bay National Park, Katmai National Park, Kenai Fjords National Park, and that portion of Denali National Park established as Mt. McKinley National Park prior to passage of ANILCA. Therefore, neither Title VIII of ANILCA nor these regulations permit subsistence uses on the public lands identified above.

Several commentors expressed frustration with the lack of clarity in the regulations. Commentors generally did not identify the specific regulations that they thought were confusing. However, where possible, regulatory language has been revised to improve clarity. One commentor requested clarification of the meaning of the § 3(a) statement that these regulations do not supersede other agency specific regulations. This statement means that regulations in this final rule do not override regulations that individual agencies establish to carry out their particular responsibilities.

One commentor asserted that the regulations do not apply to a sovereign nation. The regulations apply to the taking of fish and wildlife resources on public lands as defined in this Part.

Another commentor suggested that the term "fish and wildlife" be replaced with the term "other wild and renewable resources," the term used in section 803 of ANILCA to define subsistence uses. ANILCA requires the Secretary to take over subsistence management responsibilities on public lands if the State fails to enact laws of general applicability consistent with sections 803, 804, and 805 of ANILCA. Section 805(d) of ANILCA specifies that these regulatory responsibilities apply to the taking of fish and wildlife on public lands. The FSMP has been established to assume these responsibilities until the Secretaries certify that the State's subsistence legislation complies with title VIII of ANILCA and a rulemaking proceeding to repeal these regulations has been completed. Additionally, section 1314 (a) and (b) of ANILCA further limit the State's subsistence management jurisdiction to fish and wildlife only, and ensure that management responsibility for all other resources remains with the Secretaries. Consequently, the FSMP pertains only to the taking of fish and wildlife on public

lands. The taking and use of wild and renewable resources, other than fish and wildlife, will continue to be managed by the appropriate land management agency.

Section 3 of these regulations specifies that the regulatory language applies to all non-navigable waters located on all public lands and to navigable waters located on certain public lands listed at § 3(b). The areas in this list, along with the area referred to as the Old Kuskokwim Wildlife Refuge which has now been deleted from this list in the final rule, previously appeared at various locations throughout § 24 of subpart D in the proposed regulations (56 FR 64404-64444). The area identified as the Old Kuskokwim Wildlife Refuge is that portion of the present Yukon Delta National Wildlife Refuge formerly known as the Kuskokwim National Wildlife Range. The definition of public lands found in ANILCA and these regulations does not include the submerged lands beneath navigable waters in the area formerly known as the Kuskokwim National Wildlife Range because the United States does not hold title to those submerged lands. As indicated in § 3(c), the areas in this list remain subject to modification through rulemaking procedures. Nothing in these regulations is intended to enlarge or diminish the Federal government's authority to manage submerged lands title to which is held by the United States. The Departments retain the authority to exercise jurisdiction over those submerged lands which the United States reserved at the time of Alaska's Statehood and which have not been subsequently conveyed to the State or any other party.

Section 4 Definitions

Comments on definitions included requests for clarity, criticisms of specific definitions, suggested revisions to specific definitions, and requests for additional terms to be defined. Several editorial changes have been made to correct inadvertent deletions and to clarify intent. Where possible, definitions have been revised to be more explicit. The definition of agency has been expanded to identify the five principal Federal land management agencies with subsistence management responsibilities.

The definitions of barter and customary trade elicited numerous comments. Some commentors objected to the regulation defining customary trade as an alternative means of supporting subsistence needs. They viewed customary trade as integral to, not an alternative to, subsistence, citing

section 803 of ANILCA. The final regulation has been amended to reflect this comment.

Several commentors felt that it was inappropriate to prohibit the use of money as a component of barter. Others mentioned that the definition of barter, which prohibits exchange of money, conflicts with the definition of customary trade, which authorizes the exchange of money as long as the exchange does not constitute a significant commercial enterprise. The definition of barter in the regulations, including the prohibition against use of cash, comes directly from section 803(2) of ANILCA. Likewise, the legislative history of ANILCA pertaining to customary trade reveals that cash may play a role in subsistence activities, and ANILCA accommodates that role. Several commentors recommended that the regulations establish more definitive guidelines describing exactly what constitutes customary trade. Some of these commentors suggested that the regulations use a dollar figure to define customary trade. Others felt that customary trade should be limited to the types and volumes of trade that occurred prior to the passage of ANILCA. At this time, insufficient customary and traditional use information exists to establish further guidelines that will accommodate subsistence use for customary trade while precluding the development of any significant commercial enterprise under the guise of subsistence. Following the enactment of this rule, the Board will place a high priority on refining the definition of customary trade and developing a definition for significant commercial enterprise, after considering recommendations submitted by the Federal Regional Advisory Councils (Regional Councils).

Several comments were received relative to the definitions of conservation of healthy populations of fish and wildlife and conservation of natural and healthy populations of fish and wildlife. Some felt that the definitions should be compatible with the State's sustained yield concept. Others saw the need to replace the definitions with a continued viability standard as found in sections 802, 804 and 816 of ANILCA. A few commentors wanted to reword the regulation to characterize subsistence uses as an integral, rather than natural, part of the ecosystem. Some commentors felt that the definition of natural and healthy populations of fish and wildlife was an unnecessarily conservative standard. A few commentors suggested that

managing for stable populations is unrealistic.

Title VIII sets forth, in sections 802(1) and 815(1), the term conservation of healthy fish and wildlife populations, rather than sustained yield, as the standard by which subsistence taking and uses will be managed. The definition of this term comes from Senate Report 96-413, p.233. The term conservation of natural and healthy populations of fish and wildlife has been deleted from the definitions section because adequate protection of natural populations in National Park Service areas is embodied in the conservation of healthy populations of fish and wildlife definition, which states that management will differ depending upon specific agency mandates.

Several commentors pointed out that the term continued viability was used in the regulations, but was not defined. A definition is unnecessary since the added protection afforded by conservation of healthy populations of fish and wildlife will also protect and assure the continued viability of those populations.

The definition of customary and traditional use was criticized as lacking a reference to the concept of sharing. Section 803 of ANILCA and these regulations include sharing in the definition of subsistence uses. Sharing is recognized as a characteristic of subsistence uses, and is one of eight factors to be used by the Board in making customary and traditional use determinations. Section _____.16 of these regulations describes the process the Board will employ when making customary and traditional use determinations. One commentor felt the last sentence of the regulation, referring to the important role of customary and traditional use in the economy of the community, was redundant.

One commentor felt that the definition of family was too restrictive because it excludes members of the extended family living in other households. Section 803(1) of ANILCA explicitly limits the definition of family to those persons related by blood, marriage, or adoption or those persons living within the same household on a permanent basis. Therefore, although members of an extended family may live in separate households, the members nevertheless satisfy the definition of family if they are related by blood, marriage, or adoption. The regulations recognize the importance of sharing, and do not prohibit the customary and traditional sharing of fish and wildlife for personal or family consumption.

Numerous comments were received concerning the definitions of Federal

lands and public lands. All of these comments focused on the issue of jurisdiction over fisheries in navigable waters. Many felt that the definitions should include navigable waters to protect subsistence use and the subsistence priority. They strongly believe it was Congress' intent to protect subsistence rights as broadly as possible. Additionally, many individuals commented that most subsistence resources are found in navigable waters.

The scope of these regulations is limited by the definition of public lands, which is found in section 102 of ANILCA and which only involves lands, waters, and interests therein title to which is in the United States. Because the United States does not generally own title to the submerged lands beneath navigable waters in Alaska, the public lands definition in ANILCA and these regulations generally excludes navigable waters.

Consequently, neither ANILCA nor these regulations apply generally to subsistence uses on navigable waters. However, based upon specific pre-Statehood reservations of submerged lands, § _____.3(b) establishes that these regulations apply to navigable waters located on the identified public lands. The listed areas remain subject to change through further rulemaking pending a review and determination of pre-Statehood reservations by the United States.

Some commentors requested that the terms reasonable opportunity, subsistence priority, and rural subsistence priority be defined. However, the definitions section is intended to provide definitions for terms that are used in the regulations; and because these terms do not occur in the regulations it is not necessary to define them.

Comments relating to the definition of resident consisted of opinions on what should constitute the minimum period of residency to qualify as a resident. The FSMP will continue to use the variety of factors listed in the regulations as the basis for determining who is a resident, because Board use of the various factors injects fairness and good faith into the process of identifying a resident.

Several requests suggested changes to the definition of subsistence uses. These regulations have adopted the term as defined by Congress in section 802 of ANILCA, and will not be amended.

Section _____.5 Eligibility for Subsistence Use

Three types of comments were received relative to determining eligibility for subsistence use. Some wanted clarification regarding which

individuals are eligible. A few objected to the authority of the National Park Service, separate from the Board, to regulate eligibility for subsistence uses on National Park Service lands. Some suggested specifically excluding military personnel stationed in rural areas from eligibility for subsistence use.

This section briefly describes those individuals eligible to take fish and wildlife for subsistence purposes under these regulations and how their eligibility is determined. There are two tests for Board determinations of eligibility. The first is rural residency. Only residents of communities or areas that the Board has determined to be rural are eligible for the subsistence priority. The process the Board uses to make rural determinations is described in § _____.15 of these regulations. The second test for determining eligibility is customary and traditional use determinations. In making these determinations, the Board determines which rural communities or areas have customary and traditional use of specific fish stocks and wildlife populations. After these determinations have been made, only those rural communities or areas determined by the Board to have customary and traditional use of particular fish stocks or wildlife populations are eligible for subsistence use of those stocks or populations. The Board may determine which fish stocks or wildlife populations, if any, have been customarily and traditionally used by residents of military installations that the Board has determined to be rural. If the Board has not made a customary and traditional determination of a fish stock or wildlife population, then all Alaska rural residents as defined in § _____.4 are eligible for use of those stocks or populations.

In accordance with section 203 of ANILCA, eligibility for the subsistence use of resources in areas managed by the National Park Service is restricted to local rural residents in National Preserves and, where specifically permitted, in National Monuments and Parks. National Park Service regulations govern which communities or individual residents qualify as local rural residents for specific National Park Service areas.

In some cases it may be necessary to establish priorities for subsistence uses among qualified rural Alaska residents in order to protect the continued viability of a fish stock or wildlife population or to continue subsistence uses. In these cases allocation among qualified rural Alaska residents will be determined according to the regulatory language found herein at § _____.17,

which is consistent with § 804 of ANILCA.

Section 6 Licenses, Permits, Harvest Tickets, Tags and Reports

The provisions authorizing alternative permitting systems received a great deal of attention. During the development of this final rule, there was strong criticism of the harvest permitting and reporting mechanisms existing under the temporary regulations. People said that these mechanisms were incompatible with customary and traditional practices, including those associated with cultural and religious beliefs. For example, in some communities a few hunters are responsible for providing the bulk of the community's meat supply. The existing permitting systems offer no legal means to accommodate this practice. People encouraged the development of alternative mechanisms to accommodate this and other well-established customary and traditional practices. Federal managers realize that harvest is often not reported because of these incompatibilities, and the result is an absence of accurate harvest and biological information. In response to these concerns, the proposed regulations to this final rule included language allowing the Board to implement alternative permitting systems and harvest reporting. Most comments expressed support for the proposed alternative permitting systems. A few said that only the disabled should be allowed to designate another hunter.

Public response to the alternative permitting provision in the proposed regulations to this final rule elicited additional support for implementation of such systems. People spoke of the importance of providing for extended families or for those who cannot hunt, such as the handicapped or the elderly. They described instances where it is culturally inappropriate for a person to harvest alone or for personal use and where a community-based harvest is important for cultural and ceremonial purposes such as funerals, memorials, and potlatches. People also spoke of the need and willingness of local representatives to manage harvest permitting, enforcement, and data collection.

People suggested additional remedies to better accommodate subsistence uses. These remedies included eliminating licenses for subsistence, replacing licenses with identification cards, not charging fees for any license or permit, not requiring licenses or permits to be carried in the field or validated at the harvest site, allowing incidental and opportunistic take without permits, accommodating individuals with limited

comprehension of English, not requiring "sport" licenses of subsistence users, issuing licenses according to the regulatory year rather than calendar year, and making permits more available by using vendors or local governmental entities for distribution. These issues will be considered as the FSMP develops.

Many people expressed concerns about enforcement problems, abuses of permits, and difficulties resulting from separate State and Federal licensing, permit, and reporting requirements. To the extent possible, these regulations are designed to work in conjunction with State requirements. Whenever possible, a State license, reporting, or permit mechanism will be used. Where State regulations regarding licenses, reporting or permits are inadequate, Federal license, reporting or permit mechanisms may, if necessary, provide rural Alaska residents subsistence opportunity while conserving healthy populations of fish and wildlife.

Some comments addressed the text of the regulations. There were requests to clarify the responsibilities of individuals and communities. People noted that modifiers such as immediately and at all times were excessively demanding and should be eliminated. People suggested that revocation of permission should be outlined and that tags be required for community bag limits. It was also suggested that there be stipulations that community harvest may only be permitted where all who wish to hunt can be allowed to participate. In response to these comments, the regulations have been revised to further clarify responsibilities and requirements.

Specific conditions for the use of a particular harvest reporting system may be applied on a case-by-case basis. Further development and refinement of guidelines for alternative permitting systems will occur as the FSMP evolves.

Although these regulations generally permit an individual to harvest wildlife during a particular season and at a specified level or bag limit, they also may permit harvest activity by a community. These regulations at § 6 were modified to state that intent more clearly: A defined group such as a community or a subunit of that community, such as a family, household, or traditional group, may be allowed to harvest under specific conditions.

Some commented that various harvest activities permitted by these regulations may violate section 815(1) of ANILCA, which prohibits transfer of subsistence privileges from one individual to another. These regulations do not

provide for such a transfer. Where alternative permitting systems are authorized for customary and traditional subsistence uses that involve more than an individual, the permits are for the whole activity and cannot be reassigned from one individual to another. It is the policy of the FSMP to cause the least adverse impact possible on rural residents that depend on subsistence resources, consistent with the sound management and conservation of healthy populations of fish and wildlife. The permit mechanisms of these regulations provide an opportunity for varied customary and traditional practices of subsistence uses and simultaneously provide for sound management of the resource.

Section 7 Restriction on Use

One commentor requested that the term "sharing" be specified along with customary trade and barter as an exception to the restrictions on subsistence uses. Sharing is not prohibited by this section. The intent of this section is to preclude non-subsistence exchange of items by limiting the exchange of fish and wildlife to barter or customary trade.

Another commentor requested that this section specify that subsistence users are not exempt from any prohibitions concerning controlled substances and requested that this section include a prohibition against substance abuse while engaging in subsistence activities. Regulations in this part address the taking and use of fish and wildlife on public lands in Alaska. They do not regulate controlled substances. Other statutes and regulations govern use of controlled substances.

Section 8 Penalties

Most comments focused on the appropriateness of the penalties. Some people thought the penalties were excessive, while others felt they were too small. Others suggested that the regulations should authorize enforcement authorities to seize property. Although these regulations address the taking and use of fish and wildlife on public lands, they do not provide a penalty provision separate from, or in addition to, the penalty and forfeiture provisions of each individual land managing agency. Rather, any person convicted of violating any provision of these regulations may be punished in accordance with the maximum penalty and forfeiture provisions of the agency managing the area where the violation occurred. Each individual land managing agency has its

own penalty and forfeiture provisions. The maximum penalty for any violation of these regulations committed on public lands may vary among the agencies.

One commentator was concerned that enforcement of regulations would be overzealous. The intent of the regulations is to maintain healthy fish and wildlife populations and provide continued opportunities for subsistence uses. Enforcement will be subject to agency policies and discretion.

Section 9 Information Collection Requirements

This section is included to comply with the requirements of the Paperwork Reduction Act. It contains information regarding the estimated times involved in complying with the requirements necessary to submit information required by these regulations. Some commentators felt that the time requirements listed were too low. As indicated in § 9(b) of this final rule, comments regarding time estimates should be sent directly to the address listed in this section.

Section 10 Federal Subsistence Board

Many of the comments relative to the Federal Subsistence Board pertained to the membership. People generally wanted subsistence users to have as great an effect as possible on decisions, and thus recommended that the Board have subsistence users as members. In particular, many people felt that the regulations should reflect the Board composition described in Alternative III of the EIS, in which the voting membership would include the Chairs of each Regional Council. It was also suggested that a Native person or a tribal representative be appointed to the Board. The administrative structure established by these regulations enables rural Alaska residents who have personal knowledge of local conditions and requirements to have a meaningful role in the management of fish and wildlife and of subsistence uses on public lands. The framework erected in § 11 and 12 of these regulations defines the mechanisms for including rural Alaska residents in the decisionmaking process, and establishes guidelines for decisionmakers when considering recommendations. Neither ANILCA nor these regulations provide mechanisms for including rural Alaska residents beyond the scope of the advisory system.

People were concerned that Board members lack sufficient knowledge, particularly of subsistence, to fulfill title VIII responsibilities adequately. One person listed several professional and

subsistence experience standards he felt the regulations should require individuals to satisfy in order to qualify for Board membership. The FSMP does afford rural Alaska residents the opportunity to submit recommendations for consideration to the Board. The advisory system found in these regulations at § 11 provides authority for the Board to accept and consider recommendations regarding subsistence uses and explains the procedures for responding to those recommendations. The State liaison and Regional Council liaisons may attend public portions of Board meetings and be actively involved as consultants to the Board. Additionally, Board members are supported by a variety of advisors and staff members who have professional and/or subsistence experience and education.

Commentors also suggested that the regulations be amended to include the Regional Forester as a voting member of the Board, and the State representative and Regional Council Chairpersons as liaisons to the Board. These omissions from the proposed rule were inadvertent; the final rule has been amended.

Co-management and delegation of management authority to regional or local entities were suggested by several commentors. Local entities mentioned included Indian Reorganization Act (IRA) councils, traditional councils and tribal governments. The Alaska Eskimo Whaling Commission was cited as an example of successful co-management. Because ANILCA does not authorize the Secretaries to delegate their title VIII responsibilities to private persons or groups, these regulations do not authorize the Board to delegate such responsibilities to private persons or groups.

However, regulatory language at § 10(d)(4)(xv), which is consistent with section 809 of ANILCA, authorizes the Board to enter into other cooperative agreements with other entities to effectuate these regulations. It is the intent of the FSMP to seek opportunities, within funding constraints, to cooperate with groups having an interest in subsistence management.

One commentator said that the regulations should include language giving the Board authority to assert jurisdiction off public lands for migratory species, such as caribou, to protect subsistence uses. These regulations implement the statutory provisions found in title VIII of ANILCA. Because title VIII of ANILCA only provides statutory authority for the Secretaries to exercise jurisdiction on

public lands, these regulations do not address activities off public lands.

Several comments suggested the regulations stipulate that Board meetings be held more than once per year and in locations, particularly rural areas, other than Anchorage. The final regulation has been revised to require a minimum of two meetings per year. Efforts will be made to hold Board meetings in locations other than Anchorage, subject to funding and time constraints.

Some people requested that § 10(d)(4)(ii), pertaining specifically to the Board's responsibility to determine rural areas, include a requirement for the Board to use recommendations from the Regional Councils in making these determinations. Section 10(e) of these regulations already obligates the Board to consider recommendations from Regional Councils regarding rural determinations. Additional regulatory language requiring the Board to consider such recommendations would be redundant.

These regulations authorize the Board to eliminate the taking of fish and wildlife on public lands for administrative reasons. Two commentors requested that the regulations further clarify what constitutes administrative reasons for closure. An administrative reason for closure could arise in a situation where unanticipated circumstances such as inclement weather cause the absence of agency law enforcement officers who would manage and regulate the subsistence harvest of a wildlife population. In such a case, the taking of the particular wildlife population on public lands would be prevented until agency officials become available.

Several commentors expressed concern regarding the Federal Advisory Committee Act (FACA) requirement that Regional Council and Federal Local Advisory Committee (Federal Advisory Committee) members be appointed by the Secretaries rather than elected by rural Alaska residents. One commentator requested that the requirement in § 10(d)(4)(xii) to appoint Federal Advisory Committee members pursuant to the FACA be revised to allow election of members by local residents pursuant to § 805 of ANILCA. FACA is a Federal statute which controls the procedures for appointing advisory committee representatives and are not subject to amendment by these regulations. It is the Board's intent to give rural Alaska residents as much control as possible over the selection of their representatives within the

constraints established by FACA. Accordingly, the Secretaries will appoint Regional Council members and Federal Advisory Committee members if such committees are formed by the Federal government, based upon nominations submitted to the Board.

Several commentors requested that § _____.10(d)(4)(xv) be amended to specify that tribal governments, IRA councils, and traditional councils be specifically listed as organizations with which the Board may enter into cooperative agreements. The final rule has been amended to clarify that the Board or agencies may enter into agreements with these as well as other entities. One commentor requested that international entities be specifically mentioned as eligible for entering into cooperative agreements with the Board. This provision was included in the proposed rule and remains in the final rule.

Several commentors suggested that contracting authority be specifically mentioned in the final rule. Contracting authority falls within the scope of cooperation authorized by section 809 of ANILCA and is provided for in § _____.10(d)(4)(xv) of the final rule.

Numerous commentors requested that more than eight subsistence resource regions be established. In response to public concerns over the eight regions envisioned in the EIS and the proposed rule, the Board recommended, and the Secretaries approved in the Record of Decision (ROD), the establishment of ten regions. This amendment is reflected in the final rule. Public comments received on the proposed regulations to the final rule do not reveal objections to adopting the ten regions as approved in the ROD. Therefore, this final rule includes a provision for the establishment of ten regions.

Several comments addressed the structure and function of the staff committee. Comments requested that the staff committee structure include subsistence users and that the State and other entities be invited to staff committee meetings. One commentor suggested that the regulations more clearly define the role of the staff committee to ensure that the staff committee does not exceed its authority. The role of the staff committee is to provide analytical and administrative support to the Board, at the direction of the Board. The staff committee envisions coordination with non-Federal entities to help fulfill these responsibilities. However, the primary avenue for involving rural Alaska residents in subsistence management will be through the Regional Councils and Federal Advisory Committees, if

established, described in §§ _____.11 and _____.12 of these regulations.

Several commentors wanted assurance that the Board would be responsive to Regional Council recommendations. Consistent with ANILCA, § _____.10(e) of these regulations specifically requires the Board to consider recommendations of the Regional Councils. The Board may choose not to follow recommendations that lack the support of substantial evidence, violate recognized principles of fish and wildlife conservation, or would be detrimental to the satisfaction of subsistence needs. The Board intends to use the Regional Councils to the maximum extent possible to fulfill its obligation to provide rural Alaska residents with a meaningful role in subsistence management, as mandated by Title VIII of ANILCA. Several commentors also suggested that the regulations direct the Board to respond, in writing and in a timely fashion, to Regional Council recommendations. The final rule has been amended to incorporate this suggestion.

Section _____.11 Regional Advisory Councils

Approximately half of the comments concerning the Regional Councils referred to the method of selection or requirements for Regional Council members. Most of these comments sought assurance that rural residency or subsistence uses would be a requirement for membership. Section 801(5) of ANILCA requires the Regional Councils to be composed of "rural residents who have personal knowledge of local conditions and requirements." Therefore, § _____.11(b) of these regulations obligates the Board to solicit and accept nominations for Regional Council members from local entities including Federal Advisory Committees, IRA and Traditional Councils, city councils and other local organizations and individuals. The Secretaries will appoint members to each Regional Council from the pool of nominations submitted to the Board for each region. The ROD outlined a system wherein the number of members on a Regional Council will be determined by the Board and will vary from region to region, depending on the number and distribution of subsistence users in the region, the variety of subsistence resources used, and the nature and extent of management issues. Public comments received on the proposed regulations do not reveal any objections to this system described in the ROD. Therefore, the Board intends to adopt this system of determining the number of members on each Regional Council.

Adequate funding for the Regional Council system was a commonly expressed concern. Federal managers are aware that the Regional Councils' ability to function properly in the past has been hampered by lack of funding. The budgeting process through which funding is allocated is complex and involves many participants and many requests for funding. Consequently, the amount of funding allocated to the advisory system is subject to forces over which the FSMP generally has limited control. Federal managers will continue to work through the channels available to it to secure funding levels necessary to administer the program adequately.

Several people wanted assurance that the Regional Councils would consider information provided by all sources, not just Federal Advisory Committees, if established, or the existing State Advisory Committees. The FSMP contemplates that Regional Councils will consider information presented by all sources during the decisionmaking process.

Many comments expressed dissatisfaction that the Regional Councils would be subject to the FACA and suggested deletion of all references to it. Until Congress provides otherwise, Regional Councils are subject to the requirements of the FACA.

Several people questioned the Regional Councils' oversight responsibilities and authorities relative to the Advisory Committees. The Regional Councils' authorities identified in § _____.11 of these regulations correlate with section 805 of ANILCA. Section 805 of ANILCA characterizes the role of the Federal Advisory Committees as providing advice to, and assisting, the Regional Councils. As such, any Advisory Committees will serve as a source of information to the Regional Councils. Consistent with section 805 of ANILCA, § _____.11 of these regulations does not authorize the Regional Councils to assert authority over, monitor, or otherwise oversee the Advisory Committees.

Two commentors requested further delineation of the duties and qualifications of the Regional Coordinator positions. The Regional Coordinators will provide administrative and technical assistance to the Regional Councils. Qualifications for these positions will include sufficient technical and administrative skills and knowledge of subsistence uses to provide effective assistance to the Regional Councils.

It was suggested that language be added describing Regional Council authority to appoint three members of

each Subsistence Resource Commission. Regulatory language has been added at § _____.11(c)(1)(vii) describing the responsibility of a Regional Council to appoint members to the Subsistence Resource Commissions (Commissions) within a Regional Council's respective region. An additional suggestion sought definition of the other duties found at § _____.11(c)(2)(ii) of these regulations, the Board would require the Regional Councils to perform. At this time, it is difficult to predict what other duties may be necessary for the Regional Councils to perform. Generally, as set out in § _____.11 of these regulations, the Regional Councils will review, evaluate and make recommendations on any existing or proposed regulation, policy, or management plan, or any other matter relating to the subsistence taking of fish and wildlife within or affecting the regions they represent.

Section _____.12 Local Advisory Committees

Many of the comments received pertaining to Federal Advisory Committees dealt with the establishment of the committees. Some commentors wanted to have one Federal Advisory Committee per village. Others suggested using the existing State advisory committees. Consistent with ANILCA, § _____.12 of these regulations directs the Board to establish Advisory Committees as necessary, after determining that the existing State advisory committees do not adequately perform the local committee functions of providing advice to, and assisting, the Regional Councils in carrying out their responsibilities. The review of the existing advisory system, published in June 1991, concluded that the existing Advisory Committees were an adequate source of advice and assistance to the Regional Councils in carrying out the functions authorized by ANILCA. Consequently, the Board will not establish Federal Advisory Committees unless the existing State Advisory Committees are found to be inadequate, and in addition, Federal Advisory Committees are found to be necessary. The Board will establish Advisory Committees if the Board determines that Federal Advisory Committees are necessary and if, after notice and hearing, the Board determines that existing State advisory committees are not fulfilling the requirements of providing advice to, and assisting the Regional Councils, as provided in § _____.12. In such instances, § _____.11(c)(1)(xii) authorizes Regional Councils to provide recommendations to the Board on the establishment and membership of

Federal Advisory Committees. The number of communities represented by each Federal Advisory Committee, if established, would be determined on a case-by-case basis.

Other comments addressed the membership of any Federal Advisory Committees, if established. Some people thought members should be selected by residents of the area, and wanted Federal Advisory Committee members to be subsistence users. It was also suggested that local IRA or traditional councils serve as the Federal Advisory Committee or appoint the members. If the Board determines that Federal Advisory Committees are necessary, and that the State advisory committees are inadequate, Federal Advisory Committee members shall be selected in accordance with requirements of these regulations, FACA and guidance provided in ANILCA. It is contemplated that if the Board establishes Federal Advisory Committees, the members of such committees shall be appointed by the Secretaries, but the Secretaries shall select appointees from nominations submitted through the Board by Native and non-Native rural Alaska residents.

Several comments addressed the role of the Federal Advisory Committees.

Some people urged that the committees be given a more meaningful role. Suggestions ranged from authorizing the committees to propose regulations to allowing the committees to manage local fish and wildlife resources. State Local Advisory Committees, and Federal Advisory Committees should they be established, are authorized and indeed encouraged to submit regulatory proposals, as well as provide any other information that will facilitate the management of fish and wildlife and subsistence uses in their areas. As discussed in the section pertaining to the Board, the Board lacks authority to delegate its subsistence management authority to private persons or groups. However, § _____.10 of these regulations requires the Board to consider recommendations submitted through the advisory system regarding the management of fish and wildlife and subsistence uses on public lands.

Several people expressed confusion concerning the role of the Advisory Committees. The role of the Advisory Committees is to provide advice to, and assist, the Regional Councils in carrying out their responsibilities. Committees can submit proposals on any matters that concern subsistence management on public lands.

One person remarked that subsistence users do not have enough time to participate in the administrative

process. Federal subsistence managers are aware of the unique circumstances hindering rural residents' participation in decisionmaking. The decisionmaking process is complex, involving many participants and many procedures. Time constraints are a necessity if the Board is to make decisions in a timely manner. It is anticipated that the assistance provided by Federal Regional Coordinators, and further refinement of the regulatory process, will help rural Alaska residents participate fully and effectively in the administrative process.

Section _____.13 Board/Agency Relationships

Two commentors felt this section suggested that the Secretary of the Interior had abrogated his authority over Federal subsistence management to the Board. Section 814 of ANILCA vests the Secretaries with the responsibility for implementing Title VIII of ANILCA. The Secretaries have delegated promulgation and signature authority for regulations of Subparts C and D to the Board. This delegation does not constitute a delegation of the Secretaries' final authority over these, or other subparts, of this rule.

One commentor suggested that the regulations should more explicitly define the role of the National Park and Monument Subsistence Resource Commissions in relation to the FSMP. The commentor also questioned whether the Board has the authority to regulate subsistence hunting on National Park and National Monument lands, if the Subpart B regulations do not constitute a delegation of section 808 authority from the Secretary of the Interior to the Board. The Commissions, established pursuant to section 808 of ANILCA, have a very specific role in regard to seven national parks and national monuments managed by the National Park Service. The role of the Commissions is to devise a subsistence hunting program for the appropriate National Park or Monument. Administrative and technical support for the Commissions is the responsibility of the National Park Service. A Commission may make subsistence hunting program recommendations regarding issues as diverse as: eligibility criteria for qualifying as local rural resident users of a National Park or Monument, the relationship of visitor service developments to subsistence hunting, or seasons and bag limits in a National Park or Monument. Most of the issues addressed by the commissions are beyond the purview of the Board's authority regarding rural and customary and traditional eligibility, or seasons

and bag limits and methods and means. Recommendations of the Commissions will continue to be conveyed directly to the Secretary of the Interior. If approved by the Secretary, such recommendations will be implemented by any one of several appropriate means.

Because the Board sets seasons and bag limits and methods and means provisions for all public lands, including National Park Service lands, it is expected that the Commissions will take an interest in such actions that may affect subsistence hunting in National Parks and Monuments. As necessary, it is expected that the Commissions will express their recommendations on such actions to the Secretary.

Duties granted to the Commissions do not include a delegation of regulatory authority because the Commissions are advisory only. Therefore, the suggestion that section 808 of ANILCA could prohibit the Board from implementing regulations affecting national parks or monuments is incorrect.

A few commentors felt that this section suggested that the Secretaries had abrogated their authority over FSMP to the Board. Section 814 of ANILCA places responsibility for the proper implementation of Title VIII of ANILCA with the Secretaries. To simplify and localize the process for promulgating rural determinations, customary and traditional use determinations, seasons and bag limits, and methods and means provisions, the Secretaries have delegated administrative and signature authority for subparts C and D to the Board. As with any such internal departmental delegation, the Secretaries remain responsible, as statutorily charged, for the proper administration of the program.

One commentor requested that the final rule include a regulation requiring the agencies to determine the effects of habitat management programs and development activities on subsistence resources and uses, and avoid implementing programs that adversely affect subsistence resources and uses. Section 810 of ANILCA establishes the requirement and process for agencies to consider effects of proposed resource uses on subsistence uses. It is unnecessary to reiterate this process in the final rule.

One commentor requested that State and Federal research data shall be made available to the Regional Councils, Advisory Committees, and the Board. In accordance with section 805(b) of ANILCA, § 10(e)(2) of these regulations requires that appropriate technical assistance be provided to the Regional Councils.

Section 14 Relationship to State Procedures and Regulations

A few comments addressed the Board's authority over activities off public lands. One commentor said the Board's authority to restrict the taking of fish and wildlife as authorized by the State should apply only to public lands. Other commentors said the regulations should be revised to assert more authority off public lands. Title VIII of ANILCA only provides authority for the Secretaries to exercise jurisdiction on public lands. Accordingly, these regulations do not address activities off public lands.

One commentor wanted a regulation to require a meeting between the Chair of the Board and the State Board of Game. Another commentor suggested adding a statement requiring consultation with the State before any closure of public lands to non-subsistence hunting or fishing.

Section 14 of this final rule sets the appropriate tone and level of authority and cooperation for the FSMP. Representatives of the Board and staff committee may meet as needed with State Board and Alaska Department of Fish and Game personnel. In addition, a member of the Federal subsistence staff voluntarily attends all Board of Game and many Board of Fisheries meetings. Federal subsistence managers and staff from Federal agency field stations voluntarily work closely with the Alaska Department of Fish and Game regarding allocations, closures, or restrictions of any type and this cooperative effort is expected to continue.

A provision addressing recertification of State management of subsistence uses on public lands has been added to the final rule.

Section 15 Rural Determination Process

Many people wanted provisions allowing individuals, or groups of individuals, living in non-rural areas to have the opportunity to qualify for a subsistence priority. Sections 801(5), 802(1) and 803 of ANILCA and these regulations confine the eligibility for engaging in subsistence uses to rural Alaska residents.

There were many comments addressing the rural determination process. Some commentors thought that only Ketchikan, Anchorage, Fairbanks, and Juneau, the four communities cited in the legislative history as examples of non-rural communities, should be classified as non-rural, and thus no rural determination process would be necessary. Others felt that rural

determinations should be made by the Regional Councils.

Some commentors criticized specific components of the rural determination process. Several thought that community infrastructure and population size are irrelevant and should not be factors in making rural determinations. Others remarked that the proportion of the cash element of an area's economy was not a valid consideration.

Alternative and additional guidelines were suggested. One suggestion was to use a community or area's historical pattern of customary and traditional uses to assess whether its character is rural or non-rural. Another was to recognize that variations among regions make uniform application of the guidelines inappropriate. It was also suggested that the process incorporate consideration of relative abundance of local resources relative to community size.

Some people thought the process should explicitly exclude military installations, thereby rendering residents of those installations ineligible for a subsistence priority. Others wanted the FSMP to ensure that residents of military installations would not be excluded.

Rural determinations have been the subject of intensive review the last two years. The process outlined in the final rule provides an equitable and effective way to make rural determinations. In the future the Board will establish a cycle for reviewing rural determinations. The next review will occur following publication of the results of the next decennial census. However, the Board may reconsider rural determinations outside of the established schedule if special circumstances warrant such action.

To mitigate the effect of sudden loss of subsistence uses on those who previously were dependent on them, there will be a five year waiting period before a Board decision to change a community or area's status from rural to non-rural becomes effective.

Section 16 Customary and Traditional Use Determination Process

Since the inception of the FSMP in July 1990, it has become increasingly apparent that many of the customary and traditional use determinations adopted from the 1989-90 State regulations must be reassessed. The proposed rule listed, and solicited changes to, these customary and traditional use determinations. Although many proposals were received, no changes have been made to these determinations in the final rule at this

time. The absence of change results because the process the Board will use for making customary and traditional use determinations does not become effective until July 1, 1992, when this final rule is implemented. Determinations of customary and traditional use of fish and wildlife populations will be made by the Board after the Board reviews recommendations of the Regional Councils. The Board will soon begin reviewing and, where appropriate, revising customary and traditional use determinations. The Board will also make new customary and traditional use determinations. Some determinations are anticipated to change due to the addition of several communities classified as rural. The Board will consider requests received by March 16, 1992, in response to the proposed rule, as well as requests received in appeals brought under the temporary regulations. A proposed priority list and schedule for customary and traditional use determinations will be published soon.

Some of the comments pertaining to the customary and traditional use determinations process stressed the importance of public involvement. The primary concern was that the Board should rely heavily on comments from local subsistence users when it makes customary and traditional use determinations. The Board recognizes that suggestions from rural Alaska residents are valuable sources of information concerning customary and traditional use. Consequently, a high priority task for the Regional Councils, once they are established, will be to provide the Board with information, and recommendations, concerning customary and traditional uses, and their views about them, in their regions. The basic customary and traditional use determination process will not change from region to region; however, regional differences will be considered when implementing the process.

Some commentators stated that customary and traditional use determinations on National Park Service lands should be made on the same basis as those for other public lands. Commentors also said that subsistence uses on National Park Service lands should be managed just like all other public lands in Alaska. This is not possible. Section 203 of ANILCA explicitly directs that subsistence uses in National Monuments and Parks are allowed only where specifically permitted by ANILCA. In addition, ANILCA allows those local rural residents with a personal or family

history of subsistence uses within a National Park Service unit to continue to make such use of those areas.

Several commentators felt that customary and traditional use determinations should be made on an area basis rather than an individual species or community basis. People also suggested that any species within the area should be considered a subsistence resource. The legislative history of ANILCA clearly indicates that, with the exception of lands managed by the National Park Service, customary and traditional uses should be evaluated on a community or area basis, rather than an individual basis. It also indicates that the subsistence use of each wildlife population or fish stock must be identified. Consequently, the Federal process for customary and traditional use determinations will consider the customary and traditional use of each wildlife population or fish stock within a given area by the residents of that area. The customary and traditional use determination process followed by the Board will permit evaluation of each community to determine if it exhibits characteristics of a subsistence community.

Section _____.17 Determining Priorities for Subsistence Uses Among Rural Alaska Residents

One commentator said this section should address the Board's full scope of responsibilities pursuant to section 804 of ANILCA. The responsibilities in section 804 of ANILCA are two-fold. The first is to accord subsistence uses by rural Alaska residents a priority over other consumptive uses of fish and wildlife. This responsibility is the driving force behind the FSMP, and all regulations contained in this rule are intended to promote fulfillment of this responsibility. The second responsibility is to allocate among rural Alaska residents, when necessary to protect the continued viability of fish or wildlife populations or to continue subsistence uses of specific populations. Section _____.17 of these regulations establishes the regulatory structure for allocating priorities for subsistence uses among rural Alaska residents.

Several commentators remarked that consideration of "store-bought food" and proximity to grocery stores should not be considered "alternative resources" for the purposes of determining how to allocate among qualified rural Alaska residents. These comments will be considered as the process for allocating among rural Alaska residents is refined.

Several commentators suggested that the regulations should be revised to

strengthen the Board's obligation to solicit advice from Federal Advisory Committees, if established, and heed recommendations from Regional Councils. As discussed in the narratives pertaining to the sections on the Board and Regional Councils, these regulations are designed to satisfy Title VIII of ANILCA, including Board responsibilities relative to public involvement. Recommendations from Regional Councils regarding the allocation of subsistence uses among rural Alaska residents, under § _____.10, will be accepted and considered by the Board.

Section _____.18 Regulation Adoption Process

There were numerous comments pertaining to various aspects of the regulation adoption process. One of the most frequently made suggestions was that thirty days was too short a period for public review of proposals submitted to the Board. The regulations do not limit the review period to thirty (30) days. Rather, the regulations establish thirty (30) days as the minimum time period to be allotted for public review. Longer public review periods are permissible and will be provided when appropriate. The regulations have been revised to reflect this intent. A thirty day minimum time period was selected because it gives the Board the option of establishing a quarterly or semiannual schedule to adopt proposals. If the Board chooses to consider proposals on a quarterly or semiannual basis, a longer review period would not be feasible. The regulatory process has many phases, each requiring valuable time. In order to make decisions in a timely fashion and at the same time fulfill these requirements, each phase of the decisionmaking process is often shorter than what would otherwise be desirable. Additionally, Federal managers are aware that rural Alaska residents in particular are especially susceptible to the consequences of short time frames. It is the intent of the FSMP to afford the public an adequate opportunity to review proposals. Language requiring the proposals to be made available for public comment has been added to the regulation.

Several people suggested that the Board stagger its consideration of proposals by species so that only certain species and certain groups of regulations would be considered at each Board meeting. While there presently is no need to adopt this strategy, the Board may consider such an approach in the future if the workload warrants it.

Some commentors wanted the regulations to allow proposals to be accepted by the Board all year long. Proposals on Subparts C and D may be submitted to the Board at any time of the year. However, unless there is a need to address a proposal immediately, proposals shall be routed through the established regulatory review cycle. The Regional Councils may develop proposals, and will review and evaluate proposals from other sources. Recommendations from Regional Councils shall be forwarded to the Board for action. Proposals from individuals, Federal or State agencies, or other groups shall be available to the Regional Councils for review and evaluation prior to action by the Board. The regulatory review cycle ensures that review and consideration of proposals is conducted in an efficient and thorough manner, with adequate review by agencies and the public. It is important that proposals go through this process unless other, more important concerns, such as protecting the health of the subject wildlife population or fish stock, have surfaced.

The list of customary and traditional use determinations has been moved to subpart C. This means that customary and traditional use determinations will not be reviewed on the same schedule as the seasons, bag limits, methods and means contained in subpart D. As described in the narrative regarding customary and traditional determinations (§ _____.16), proposals for changes to customary and traditional use determinations shall be addressed by the Board on a schedule that is different from the subpart D regulatory cycle. This schedule will be published.

Section _____.19 Closures and Other Special Actions

Several people requested assurance that the State of Alaska would be consulted in the event of a temporary closure. Consistent with section 816 of ANILCA, § _____.19(b) of these regulations has been revised to reflect that the Board consult with the State prior to any temporary closure of public lands to the subsistence use of a particular fish or wildlife population.

There were also suggestions to limit the Board's authority to close public lands only for reasons of public safety or to assure the continued viability of a particular fish or wildlife population. ANILCA identifies reasons for which closures of public lands may be made. These reasons include: (1) To assure the continued viability of a particular fish or wildlife population; (2) public safety; and (3) administration. Therefore, these regulations also include administration

as a reason for closing public lands to subsistence uses.

People suggested the regulations require individual agencies to notify the Board when they take action relating to subsistence uses. Effective lines of communication among agencies are well-established at all levels of the FSMP. Thus far there has arisen no need to establish a regulation directing agencies to formally notify the Board of their actions.

There were also suggestions to limit the Board's authority to close public lands only for reasons of public safety or to assure the continued viability of a particular fish or wildlife population. In an emergency situation, these regulations authorize the Board to direct an immediate closure for two reasons: (1) To assure the continued viability of a fish or wildlife population; or (2) for reasons of public safety. These regulations further identify three reasons for which the Board may direct temporary closures of subsistence uses on public lands: (1) To assure the continued viability of a particular fish or wildlife population; (2) for public safety; or (3) for reasons of administration. These regulations also provide that the Board may close public lands to non-subsistence uses when necessary to continue subsistence uses of fish and wildlife on public lands or when necessary for public safety, administration or to assure the continued viability of a particular fish or wildlife population.

People also wanted assurance that proposals dealing with emergency situations in which the health of fish or wildlife populations was in danger would be dealt with expeditiously. In carrying out their responsibility for conservation of healthy populations of fish and wildlife, the Board will assure that populations are not jeopardized.

In addition to revisions made in response to public comments, other modifications have been made to clarify the Board's closure and opening authorities. Consistent with section 815(3) of ANILCA, the regulations now specifically address the Board's authority to restrict non-subsistence uses on public lands. The regulations also clarify the Board's authority and responsibilities with regard to closures in emergency situations and in non-emergency situations. A new provision describes the Board's authority and responsibilities relative to opening or adjusting seasons, and increasing bag limits outside of the established regulatory cycle.

Section _____.20 Requests for Reconsideration

Several commentors opposed the proposed deletion of the provision authorizing the Board to stay its decisions. Section _____.20 provides the Board with sufficient mechanisms to act quickly, thereby eliminating the need for any stay provisions.

One commentor requested that the provision requiring information about how the requestor is adversely affected by the action be revised to require information about how the requestor or the subsistence resource or both are adversely affected by the action. The intent of this regulation is to provide people who are adversely affected by Board decisions with a mechanism for appealing that decision. If the health of a fish or wildlife population is threatened, the regulations in § _____.19 provide the mechanism for taking the appropriate actions.

Many comments suggested ways of reducing the burden on those individuals submitting requests for reconsideration. Some addressed the proposed forty-five day time limit for submitting requests for reconsideration. Several commentors requested that the time limit be extended, or deleted completely, because it was unfair to rural residents who often do not receive timely notice of Board decisions, and consequently do not have sufficient time to prepare the paperwork necessary for a request for reconsideration. The time limit to submit requests for reconsideration has accordingly been extended to sixty days.

One commentor suggested that petitioners only be required to submit a notice of grievance and a means of contacting the petitioner. Another commentor suggested that petitioners need to be reimbursed. Federal managers are aware of the unique circumstances that create obstacles to rural residents who would like to have the Board reconsider certain decisions. The Board will take into consideration these unique circumstances when considering requests for reconsideration. However, in order to make sound decisions, the Board needs the information that is outlined in the rule. Consequently, the final rule retains these information requirements. Additionally, there is no current legal authority for the Federal government to reimburse petitioners for their expenses.

One commentor also said the Board should be required to acknowledge that it has received a request for reconsideration, and request any additional information necessary, within

10 days of receipt of the request. The Board intends to acknowledge receipt of every request for reconsideration, and will request additional information as soon as possible following receipt of the request.

One commentor requested that the rule be amended to require the Board to accept and consider Regional Council recommendations on requests for reconsideration. Section _____.20(e) provides for this request.

One commentor identified a need to have an appeals process for situations where the allocation between State and Federal harvests is unfair to subsistence users. Section _____.19 of this final rule allows for the Board to make decisions outside of its decisionmaking cycle to accommodate situations in which there is a need for subsistence harvest. A provision allowing this to be accomplished with a request for reconsideration is not necessary.

In addition to the procedures described in this section, any person may petition for the issuance, amendment or repeal of a subpart A or B regulation under the provisions of 43 CFR part 14 and the Administrative Procedures Act. Petitions must identify the regulation being appealed or provide the text of a proposed rule, and include reasons in support of the petition. The petition must be addressed to the Secretary of the Interior, U.S. Department of the Interior, Washington, DC 20240.

One comment maintained that despite the existence of the request for reconsideration provision in the final rule, the regulatory language must provide procedures for the administrative resolution of subsistence-related disputes. To resolve disputes informally and without litigation, the FSMP affords subsistence users, and others, direct access to the Board through the request for reconsideration provision.

Section _____.21 [Reserved]

Section _____.22 Subsistence Resource Regions

Several comments were received relating primarily to Regional Council boundaries or configurations. After considering these comments, the Secretaries' decision in the ROD, and factors such as common cultural practices, similar resource use, distinct wildlife populations, recognizable regional boundaries, the need for local involvement, and cost effectiveness, the Board has established 10 Federal Subsistence Resource Regions as shown in the revised § _____.22 of this final rule.

Finally, one commentor wanted to know what is meant by the sentence following subpart C, Customary and Traditional Use Determinations, under the heading "Title 36-Parks, Forests and Public Property". The sentence reads "Part 242 of title 36 is proposed to be revised as set forth at the end of the common rule." This sentence is necessary for codification of regulations in the Code of Federal Regulations. It does not affect the content or implementation of Federal subsistence regulations.

Subpart D

This subpart will contain sections on definitions, prohibitions, methods and means, individual species seasons and bag limits, and fish and shellfish. It is not included in this rulemaking as it is being promulgated under a separate rulemaking process; however, it will be issued concurrently with subparts A, B and C as a final rule. Subparts A, B, C, and D will be codified in 36 CFR part 242 and 50 CFR part 100.

Conformance With Statutory and Regulatory Authorities National Environmental Policy Act Compliance Environmental Impact Statement

A draft Environmental Impact Statement (EIS) that described four alternatives for developing a Federal Subsistence Management Program in Alaska was distributed for public comment on October 7, 1991. That document described the major issues associated with Federal subsistence management as identified through public meetings, written comments and staff analysis and examined the environmental consequences of the four alternatives. Proposed regulations (subparts A, B, and C) that would implement the preferred alternative were included in the draft EIS as an appendix. They were subsequently published as a proposed rule in the *Federal Register* on January 30, 1992. The final EIS was published on February 28, 1992.

Based on the public comment received, the analysis contained in the final EIS, and the recommendations of the Board and the Department of the Interior's Subsistence Policy Group, it is the decision of the Secretary of the Interior, with the concurrence of the Secretary of Agriculture, acting through the Forest Service, to implement Alternative IV as identified in the final EIS with two modifications. The first modification is to increase the number of regions and Regional Councils from eight, as shown in the proposed action in the draft EIS, to ten. The second modification pertains to the rural

determination process. The change consists of including a five year waiting period for implementation of Board decisions to change community or area status from rural to non-rural. These regulations, after consideration of all timely public comments, implement the decision as documented in the ROD on Subsistence Management for Federal public lands in Alaska that was signed April 6, 1992.

Compliance with Section 810 of ANILCA

The intent of all Federal subsistence regulations is to provide opportunities for subsistence uses subject to the limitation of protecting healthy fish and wildlife populations. The section 810 analysis was completed as part of the final EIS process. The final section 810 analysis determination appears in the April 6, 1992 ROD. The section 810 evaluation concludes that the FSMP under alternative IV would have some local impacts on subsistence uses, but would not constitute a significant restriction of subsistence uses under the "may significantly restrict" standard.

Paperwork Reduction Act

These rules contain information collection requirements subject to Office of Management and Budget (OMB) approval under 44 U.S.C. 3501-3520. They apply to the use of public lands by rural Alaska residents for subsistence uses. The information collection requirements described above are approved by the OMB under 44 U.S.C. 3501 and have been assigned clearance number 1018-0075.

Economic Effects

Executive Order 12291, "Federal Regulation," of February 19, 1981, requires the preparation of regulatory impact analysis for major rules. A major rule is one likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises. The Regulatory Flexibility Act (5 U.S.C. 601-612) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations or governmental jurisdictions.

The Departments of the Interior and Agriculture have determined that this rulemaking is not a "major rule" within the meaning of Executive Order 12291.

and certify that it will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

This rulemaking will impose no significant costs on small entities; the exact number of businesses and the amount of trade that will result from this Federal land-related activity is unknown. The aggregate effect is an insignificant positive economic effect on a number of small entities. The number of small entities affected is unknown, but the fact that the positive effects will be seasonal in nature and will, in most cases, merely continue pre-existing uses of public lands indicates that they will not be significant.

These regulations do not meet the threshold criteria of "Federalism Effects" as set forth in Executive Order 12612. Title VIII of ANILCA requires the Secretaries to administer a subsistence preference on public lands. The scope of this program is limited by definition to public lands in Alaska. Likewise, these regulations have no significant takings implication relating to any property rights as outlined by Executive Order 12630.

Drafting Information

This regulation was drafted under the guidance of Richard S. Pospahala, of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional guidance was provided by John Borbridge, Bureau of Indian Affairs; Thomas H. Boyd, Bureau of Land Management; Bob Gerhard, National Park Service; Norman R. Howse, USDA Forest Service. The primary author was Susan K. Detwiler. Contributors were Peggy Fox, Sharon Fleek, Cheryl Cline, Bill Knauer, and Ron Thuma, U.S. Fish and Wildlife Service; John Hiscock, National Park Service; and Ken Thompson, USDA Forest Service.

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, Public lands, Reporting and record keeping requirements, Subsistence, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, Public lands, Reporting and record keeping requirements, Subsistence, Wildlife.

Words of Issuance

For the reasons set out in the preamble, subparts A, B, and C of part 242, title 36, and part 100, title 50 of the

Code of Federal Regulations, are revised as set forth below. The text of each subpart is identical.

PART —SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

Subpart A—General Provisions

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Subpart A—General Provisions

§ 1 Purpose.

The regulations in this part implement the Federal Subsistence Management Program on public lands within the State of Alaska.

§ 2 Authority.

These regulations are issued pursuant to authority designated above, and specifically the authority vested in the Secretary of the Interior and Secretary of Agriculture specified in section 814 of the Alaska National Interest Lands Conservation Act (ANILCA) 16 U.S.C. 3124 (1980).

§ 3 Applicability and scope.

(a) The regulations of this part implement the provisions of Title VIII of ANILCA relevant to the taking of fish and wildlife on public lands in the State of Alaska. The regulations of this part do not permit subsistence uses in Glacier Bay National Park, Kenai Fjords

National Park, Katmai National Park, and that portion of Denali National Park established as Mt. McKinley National Park prior to passage of ANILCA, where subsistence taking and uses are prohibited. These regulations do not supersede agency specific regulations.

(b) The regulations contained in subpart D apply on all public lands including all non-navigable waters located on these lands. However, the regulations contained in subpart D do not authorize any subsistence uses in those National Parks listed in § 3(a). In the following areas, the regulations in subpart D apply on all Federal public lands including all waters located on these lands:

(1) The area beginning at a point on the boundary between the United States and Canada, on the divide between the north and south forks of the Firth River, approximate latitude 68°52' N., longitude 141°00' W., thence westerly along this divide and the periphery of the watershed northward to the Arctic Ocean, along the crest of portions of the Brooks Range and the DeLong Mountains, to Cape Lisburne;

(2) The area north of 61° north latitude, south of 61°21' north latitude, west of 163°40' longitude and east of the Bering Sea shoreline including Hazen Bay;

(3) Nunivak Island and waters of the Bering Sea within one mile of its shorelines;

(4) The area west of the eastern most tip of Unimak Island to the terminus of the Aleutian Islands, except the area between Akutan Pass and Samalga Island;

(5) Simeonof Island and all waters of the Pacific Ocean within one-mile of Simeonof Island;

(6) the Semidi Islands and all waters of the Pacific Ocean within one mile of each of the Semidi Islands;

(7) Kodiak National Wildlife Refuge;

(8) Waters of the Pacific Ocean enclosed by the boundaries of Womans Bay, Gibson Cove, and an area defined by a line one-half mile on either side of the mouth of Karluk River, and extending seaward 3,000 feet;

(9) All waters of the Pacific Ocean within 1,500 feet seaward of the shoreline of Afognak Island;

(10) Kenai National Wildlife Refuge;

(11) Glacier Bay National Preserve.

(c) The public lands described in § 3(b) (1)–(11) remain subject to change through rulemaking pending a Department of the Interior review of title and jurisdictional issues regarding certain submerged lands beneath navigable waters in Alaska.

§ 4 Definitions.

The following definitions apply to all regulations contained in this part.

Agency means a subunit of a cabinet level Department of the Federal government having land management authority over the public lands including, but not limited to, the U.S. Fish & Wildlife Service, Bureau of Indian Affairs, Bureau of Land Management, National Park Service, and USDA Forest Service.

ANILCA means the Alaska National Interest Lands Conservation Act, Public Law 96-487, 94 Stat. 2371 (December 2, 1980) (codified, as amended, in scattered sections of 16 U.S.C. and 43 U.S.C.).

Barter means the exchange of fish or wildlife or their parts taken for subsistence uses; for other fish, wildlife or their parts; or, for other food or for nonedible items other than money, if the exchange is of a limited and noncommercial nature.

Board means the Federal Subsistence Board as described in § 10 of this part.

Commissions means the Subsistence Resource Commissions established pursuant to section 808 of ANILCA.

Conservation of healthy populations of fish and wildlife means the maintenance of fish and wildlife resources and their habitats in a condition that assures stable and continuing natural populations and species mix of plants and animals in relation to their ecosystem, including the recognition that local rural residents engaged in subsistence uses may be a natural part of that ecosystem; minimizes the likelihood of irreversible or long-term adverse effects upon such populations and species; ensures the maximum practicable diversity of options for the future; and recognizes that the policies and legal authorities of the managing agencies will determine the nature and degree of management programs affecting ecological relationships, population dynamics, and the manipulation of the components of the ecosystem.

Customary and traditional use means a long-established, consistent pattern of use, incorporating beliefs and customs which have been transmitted from generation to generation. This use plays an important role in the economy of the community.

Customary trade means cash sale of fish and wildlife resources regulated herein, not otherwise prohibited by State or Federal law or regulation, to support personal and family needs; and does not include trade which constitutes a significant commercial enterprise.

FACA means the Federal Advisory Committee Act, Public Law 92-463, 86

Stat. 770 (October 6, 1972) (codified as amended, at 5 U.S.C. appendix II 1-15).

Federal Advisory Committees or Federal Advisory Committee means the Federal Local Advisory Committees as described in § 12.

Family means all persons related by blood, marriage or adoption, or any person living within the household on a permanent basis.

Federal lands means lands and waters and interests therein the title to which is in the United States.

Fish and wildlife means any member of the animal kingdom, including without limitation any mammal, fish, bird (including any migratory, nonmigratory or endangered bird for which protection is also afforded by treaty or other international agreement), amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate, and includes any part, product, egg, or offspring thereof, or the carcass or part thereof.

Game Management Unit or GMU means one of the 26 geographical areas listed under game management units in the codified hunting and trapping regulations and the Game Unit Maps of Alaska.

Person means an individual and does not include a corporation, company, partnership, firm, association, organization, business, trust or society.

Public lands or public land means lands situated in Alaska which are Federal lands, except—

(1) land selections of the State of Alaska which have been tentatively approved or validly selected under the Alaska Statehood Act and lands which have been confirmed to, validly selected by, or granted to the Territory of Alaska or the State under any other provision of Federal law;

(2) land selections of a Native Corporation made under the Alaska Native Claims Settlement Act which have not been conveyed to a Native Corporation, unless any such selection is determined to be invalid or is relinquished; and

(3) lands referred to in section 19(b) of the Alaska Native Claims Settlement Act.

Regional Councils or Regional Council means the Regional Advisory Councils as described in § 11.

Regulatory year means July 1 through June 30.

Resident means any person who has his or her primary, permanent home within Alaska and whenever absent from this primary, permanent home, has the intention of returning to it. Factors demonstrating the location of a person's primary, permanent home may include, but are not limited to: The address listed

on an Alaska license to drive, hunt, fish, or engage in an activity regulated by a government entity; affidavit of person or persons who know the individual; voter registration; location of residences owned, rented or leased; location of stored household goods; residence of spouse, minor children or dependents; tax documents; or whether the person claims residence in another location for any purpose.

Rural means any community or area of Alaska determined by the Board to qualify as such under the process described in § 15 of this Part.

Secretary means the Secretary of the Interior, except that in reference to matters related to any unit of the National Forest System, such term means the Secretary of Agriculture.

State means the State of Alaska.

Subsistence uses means the customary and traditional uses by rural Alaska residents of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, or transportation; for the making and selling of handicraft articles out of nonedible byproducts of fish and wildlife resources taken for personal or family consumption; for barter, or sharing for personal or family consumption; and for customary trade.

Take or taking as used with respect to fish or wildlife, means to pursue, hunt, shoot, trap, net, capture, collect, kill, harm, or attempt to engage in any such conduct.

Year means calendar year unless another year is specified.

§ 5 Eligibility for subsistence use.

(a) The taking of fish and wildlife on public lands for subsistence uses is restricted to Alaskans who are residents of rural areas or communities. Other individuals, including Alaskans who are residents of non-rural areas or communities listed in § 23, are prohibited from taking fish and wildlife on public lands for subsistence uses under these regulations.

(b) Where the Board has made a customary and traditional use determination regarding subsistence use of a specific fish stock or wildlife population, in accordance with, and as listed in, § 24, only those Alaskans who are residents of rural areas or communities so designated are eligible for subsistence taking of that population, on public lands for subsistence uses, under these regulations. All other individuals are prohibited from taking fish or wildlife from that population under these regulations.

(c) Where customary and traditional use determinations for a fish stock or wildlife population within a specific area have not yet been made by the Board (e.g. "no determination"), all Alaskans who are residents of rural areas or communities are eligible to participate in subsistence taking of that stock or population under these regulations.

(d) This section does not limit the authority of the National Park Service to regulate further the eligibility of those individuals qualified to engage in subsistence uses on National Park Service lands in accordance with specific authority in ANILCA, and National Park Service regulations at 36 CFR part 13.

§ 6. Licenses, permits, harvest tickets, tags, and reports.

(a) To take fish and wildlife on public lands for subsistence uses, subsistence users must possess and comply with the provisions of any pertinent permits, harvest tickets, or tags required by the State, or Federal permits, harvest tickets, or tags as required by the Board; and must possess the pertinent valid State hunting, fishing, and trapping licenses unless Federal licenses are required or unless otherwise provided for in these regulations.

(b) To make a fraudulent application for Federal or State licenses, permits, harvest tickets or tags is prohibited.

(c) Harvest tickets, tags, permits, or other required documents must be validated before removing the kill from the harvest site.

(d) Persons engaged in taking fish and wildlife under these regulations must comply with all reporting provisions which the Board may require.

(e) Licenses, permits, harvest tickets, tags or other documents required by this section must be produced by individuals upon the request of a State or Federal law enforcement agent. Persons engaged in taking fish and wildlife under these regulations must allow State or Federal law enforcement agents to inspect any apparatus designed to be used, or capable of being used to take fish or wildlife, or any fish or wildlife in possession.

(f) The Board may implement harvest reporting systems or permit systems where:

(1) The fish and wildlife is taken by an individual who is required to obtain and possess pertinent State harvest permits, tickets, or tags, or Federal permits, harvest tickets, or tags;

(2) A qualified subsistence user may designate another qualified subsistence user to take fish and wildlife on his or her behalf; or

(3) The fish and wildlife is taken by individuals or community representatives permitted a one-time or annual harvest for special purposes including ceremonies and potlatches;

(4) The fish and wildlife is taken by representatives of a community permitted to do so in a manner consistent with the community's customary and traditional practices.

(g) When the taking of fish and wildlife is in accordance with § 6, the permittee must comply with all of the reporting requirements of the permit. Individuals designated on a permit to take fish and wildlife are required to have that permit in their possession during the taking and to comply with all requirements of the permit, regulations in Subpart A § 6 pertaining to validation and reporting, and to regulations in Subpart D pertaining to methods and means, possession and transportation, and utilization.

(h) When a community takes fish and wildlife in accordance with § 6(f) (3) and (4), the harvest activity must be reported in accordance with regulations specified for that community in subpart D, and as required by any applicable permit conditions. Individuals may be responsible for particular reporting requirements in the conditions permitting a specific community's harvest. Failure to comply with these conditions is a violation of these regulations. Community harvests are reviewed annually under subpart D regulations.

§ 7. Restriction on use.

(a) When fish and wildlife are taken pursuant to these regulations, trade of the fish and wildlife, other than for customary trade or barter, is prohibited.

(b) When fish and wildlife are taken pursuant to these regulations, use or trade of the fish and wildlife which constitutes a significant commercial enterprise is prohibited.

§ 8. Penalties.

A person convicted of violating any provision of 50 CFR part 100 or 36 CFR part 242 may be punished by a fine or by imprisonment in accordance with the penalty provisions applicable to the public land where the violation occurred.

§ 9. Information collection requirements.

(a) These rules contain information collection requirements subject to Office of Management and Budget (OMB) approval under 44 U.S.C. 3501-3520. They apply to subsistence uses on public lands in Alaska.

(1) Section 20, Request for reconsideration. The information collection requirements contained in this section provide a standardized process to allow individuals the opportunity to appeal decisions of the Board. Submission of a request for reconsideration is voluntary but required to receive a final determination by the Board. The Department of the Interior estimates that a request for reconsideration will take 4 hours to prepare and submit.

(2) Section 6, Licenses, permits, harvest tickets, tags, and reports. The information collection requirements contained in this section provide for permit-specific subsistence activities not authorized through the general adoption of State regulations. These regulations require this information before a rural Alaska resident may engage in subsistence uses on public lands. The Department estimates that the average time necessary to obtain and comply with this permit information collection requirement is 15 minutes.

(3) The remaining information collection requirements contained in this part imposed upon subsistence uses are those adopted from State regulations. The information collection requirements must be satisfied before rural Alaska residents may engage in subsistence uses on public lands. The Department estimates that the average burden imposed upon individuals will be 8 minutes.

(b) Direct comments on the burden estimate or any other aspect of the burden estimate to: Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street NW., MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018-0075), Washington, DC 20503. Additionally, information requirements will be imposed when the Regional Councils, subject to the Federal Advisory Committee Act (FACA), are established under Subpart B. Such requirements will be submitted to OMB for approval prior to their implementation.

Subpart B—Program Structure

§ 10. Federal Subsistence Board.

(a) The Secretary of the Interior and Secretary of Agriculture hereby establish, and delegate responsibility for, administering the subsistence taking and uses of fish and wildlife on public lands, and the related promulgation and signature authority for regulations of Subparts C and D, contained herein, to the Board.

(b) Membership.

(1) The voting membership of the Board shall consist of a Chair to be appointed by the Secretary of the Interior with the concurrence of the Secretary of Agriculture; the Alaska Regional Director, U.S. Fish and Wildlife Service; Alaska Regional Director, National Park Service; Alaska Regional Forester, USDA Forest Service; the Alaska State Director, Bureau of Land Management; and the Alaska Area Director, Bureau of Indian Affairs. Each member of the Board may appoint a designee.

(2) [Reserved.]

(c) Liaisons to the Board shall consist of a State liaison, and the Chairpersons of each Regional Council. The State liaison and the Chairpersons of each Regional Council may attend public sessions of all Board meetings and be actively involved as consultants to the Board.

(d) Powers and Duties.

(1) Meetings shall occur at least twice per year and at such other times as deemed necessary by the Board. Meetings shall occur at the call of the Chair, but any member may request a meeting.

(2) A quorum shall consist of four members.

(3) No action may be taken unless a majority of voting members are in agreement.

(4) The Board is empowered, to the extent necessary, to implement Title VIII of ANILCA, to:

(i) Promulgate regulations for the management of subsistence taking and uses of fish and wildlife on public lands;

(ii) Determine which communities or areas of the State are rural or non-rural;

(iii) Determine which rural Alaska areas or communities have customary and traditional subsistence uses of specific fish and wildlife populations;

(iv) Allocate subsistence uses of fish and wildlife populations on public lands;

(v) Ensure that the taking on public lands of fish and wildlife for nonwasteful subsistence uses shall be accorded priority over the taking on such lands of fish and wildlife for other purposes;

(vi) Close public lands to the non-subsistence taking of fish and wildlife;

(vii) Establish priorities for the subsistence taking of fish and wildlife on public lands among rural Alaska residents;

(viii) Restrict or eliminate taking of fish and wildlife on public lands;

(ix) Determine what types and forms of trade of fish and wildlife taken for subsistence uses constitute allowable customary trade;

(x) Authorize the Regional Councils to convene;

(xi) Establish a Regional Council in each subsistence resource region and recommend to the Secretaries, appointees to the Regional Councils, pursuant to the FACA;

(xii) Establish Federal Advisory Committees within the subsistence resource regions, if necessary and recommend to the Secretaries that members of the Federal Advisory Committees be appointed from the group of individuals nominated by rural Alaska residents;

(xiii) Establish rules and procedures for the operation of the Board, and the Regional Councils;

(xiv) Review and respond to proposals for regulations, management plans, policies, and other matters related to subsistence taking and uses of fish and wildlife;

(xv) Enter into cooperative agreements or otherwise cooperate with Federal agencies, the State, Native corporations, local governmental entities, and other persons and organizations, including international entities to effectuate the purposes and policies of the Federal subsistence management program;

(xvi) Develop alternative permitting processes relating to the subsistence taking of fish and wildlife to ensure continued opportunities for subsistence; and

(xvii) Take other actions authorized by the Secretaries to implement Title VIII of ANILCA.

(5) The Board shall establish a Staff Committee composed of a member from the U.S. Fish and Wildlife Service, National Park Service, U.S. Bureau of Land Management, Bureau of Indian Affairs, and USDA Forest Service for analytical and administrative assistance. The U.S. Fish and Wildlife Service representative shall serve as Chair of the Staff Committee.

(6) The Board may establish and dissolve additional committees as necessary for assistance.

(7) The U.S. Fish and Wildlife Service shall provide appropriate administrative support for the Board.

(8) The Board shall authorize at least two meetings per year for each Regional Council.

(e) Relationship to Regional Councils.

(1) The Board shall consider the reports and recommendations of the Regional Councils concerning the taking of fish and wildlife on public lands within their respective regions for subsistence uses. The Board may choose not to follow any Regional Council recommendation which it determines is not supported by substantial evidence,

violates recognized principles of fish and wildlife conservation, would be detrimental to the satisfaction of subsistence needs, or in closure situations, for reasons of public safety or administration or to assure the continued viability of a particular fish or wildlife population. If a recommendation is not adopted, the Board shall set forth the factual basis and the reasons for the decision, in writing, in a timely fashion.

(2) The Board shall provide available and appropriate technical assistance to the Regional Councils.

§ 11 Regional advisory councils.

(a) The Board shall establish a Regional Council for each subsistence resource region to participate in the Federal subsistence management program. The Regional Councils shall be established, and conduct their activities, in accordance with the FACA. The Regional Councils shall provide a regional forum for the collection and expression of opinions and recommendations on matters related to subsistence taking and uses of fish and wildlife resources on public lands. The Regional Councils shall provide for public participation in the Federal regulatory process.

(b) Establishment of Regional Councils—membership.

(1) The number of members for each Regional Council shall be established by the Board, and shall be an odd number. A Regional Council member must be a resident of the region in which he or she is appointed and be knowledgeable about the region and subsistence uses of the public lands therein. The Board shall accept nominations and recommend to the Secretaries that representatives on the Regional Councils be appointed from those nominated by subsistence users. Appointments to the Regional Councils shall be made by the Secretaries.

(2) Regional Council members shall serve 3 year terms and may be reappointed. Initial members shall be appointed with staggered terms up to three years.

(3) The Chair of each Regional Council shall be elected by the applicable Regional Council, from its membership, for a one year term and may be reelected.

(c) Powers and Duties.

(1) The Regional Councils are authorized to:

(i) Hold public meetings related to subsistence uses of fish and wildlife within their respective regions, after the Chair of the Board or the designated Federal Coordinator has called the meeting and approved the meeting agenda;

(ii) Elect officers;

(iii) Review, evaluate, and make recommendations to the Board on proposals for regulations, policies, management plans, and other matters relating to the subsistence take of fish and wildlife under these regulations within the region;

(iv) Provide a forum for the expression of opinions and recommendations by persons interested in any matter related to the subsistence uses of fish and wildlife within the region;

(v) Encourage local and regional participation, pursuant to the provisions of these regulations in the decisionmaking process affecting the taking of fish and wildlife on the public lands within the region for subsistence uses;

(vi) Prepare and submit to the Board an annual report containing—

(A) An identification of current and anticipated subsistence uses of fish and wildlife populations within the region,

(B) An evaluation of current and anticipated subsistence needs for fish and wildlife populations from the public lands within the region,

(C) A recommended strategy for the management of fish and wildlife populations within the region to accommodate such subsistence uses and needs related to the public lands, and

(D) Recommendations concerning policies, standards, guidelines, and regulations to implement the strategy;

(vii) Appoint members to each Subsistence Resource Commission (Commission) within their region in accordance with the requirements of section 808 of ANILCA;

(viii) Make recommendations on determinations of customary and traditional use of subsistence resources;

(ix) Make recommendations on determinations of rural status;

(x) Make recommendations regarding the allocation of subsistence uses among rural Alaska residents pursuant to § _____.17 of these regulations;

(xi) Develop proposals pertaining to the subsistence taking and use of fish and wildlife under these regulations, and review and evaluate such proposals submitted by other sources;

(xii) Provide recommendations on the establishment and membership of Federal Advisory Committees.

(2) The Regional Councils shall:

(i) Operate in conformance with the provisions of FACA and comply with rules of operation established by the Board;

(ii) Perform other duties specified by the Board.

§ _____.12 Local advisory committees.

(a) The Board shall establish such Federal Advisory Committees within each region as necessary at such time that it is determined, after notice and hearing and consultation with the State, that the existing State fish and game advisory committees do not adequately provide advice to, and assist, the particular Regional Council in carrying out its function as set forth in § _____.11 of these regulations.

(b) Federal Advisory Committees, if established by the Board, shall operate in conformance with the provisions of the FACA, and comply with rules of operation established by the Board.

§ _____.13 Board/agency relationships.

(a) General.

(1) The Board, in making decisions or recommendations, shall consider and ensure compliance with specific statutory requirements regarding the management of resources on public lands, recognizing that the management policies applicable to some public lands may entail methods of resource and habitat management and protection different from methods appropriate for other public lands.

(2) The Board shall promulgate regulations for subsistence taking of fish and wildlife on public lands. The Board is the final administrative authority on the promulgation of subparts C and D regulations relating to the subsistence taking of fish and wildlife on public lands.

(3) Nothing in these regulations shall enlarge or diminish the authority of any agency to promulgate regulations necessary for the proper management of public lands under their jurisdiction in accordance with ANILCA and other existing laws.

(b) Section 808 of ANILCA establishes National Park and Park Monument Subsistence Resource Commissions. Nothing in these regulations affects the duties or authorities of these commissions.

§ _____.14 Relationship to State procedures and regulations.

(a) State fish and game regulations apply to public lands and such laws are hereby adopted and made a part of these regulations to the extent they are not inconsistent with, or superseded by this Part.

(b) The Board may close public lands to hunting and fishing, or take actions to restrict the taking of fish and wildlife despite any State authorization for taking fish and wildlife on public lands. The Board may review and adopt State closures or restrictions which serve to

achieve the objectives of these regulations.

(c) The Board may enter into agreements with the State in order to coordinate respective management responsibilities.

(d) Petition for repeal of subsistence rules and regulations.

(1) The State of Alaska may petition the Secretaries for repeal of these subsistence rules and regulations when the State has enacted and implemented subsistence management and use laws which:

(i) Are consistent with sections 803, 804, and 805 of ANILCA; and

(ii) Provide for the subsistence definition, preference, and participation specified in sections 803, 804, and 805 of ANILCA.

(2) The State's petition shall:

(i) Be submitted to the Secretary of the Interior, U.S. Department of the Interior, Washington, DC 20240, and the Secretary of Agriculture, U.S. Department of Agriculture, Washington, DC 20240.

(ii) Include the entire text of applicable State legislation indicating compliance with sections 803, 804, and 805 of ANILCA; and

(iii) Set forth all data and arguments available to the State in support of legislative compliance with sections 803, 804, and 805 of ANILCA.

(3) If the Secretaries find that the State's petition contains adequate justification, a rulemaking proceeding for repeal of these regulations will be initiated. If the Secretaries find that the State's petition does not contain adequate justification, the petition will be denied by letter or other notice, with a statement of the ground for denial.

§ _____.15 Rural determination process.

(a) The Board shall determine if an area or community in Alaska is rural. In determining whether a specific area of Alaska is rural, the Board shall use the following guidelines.

(1) A community or area with a population of 2500 or less shall be deemed to be rural unless such a community or area possesses significant characteristics of a non-rural nature, or is considered to be socially and economically a part of an urbanized area.

(2) Communities or areas with populations above 2500 but not more than 7000 will be determined to be rural or non-rural.

(3) A community with a population of more than 7000 shall be presumed non-rural, unless such a community or area possesses significant characteristics of a rural nature.

(4) Population data from the most recent census conducted by the United States Bureau of Census as updated by the Alaska Department of Labor shall be utilized in this process.

(5) Community or area characteristics shall be considered in evaluating a community's rural or non-rural status. The characteristics may include, but are not limited to:

- (i) Use of fish and wildlife;
- (ii) Development and diversity of the economy;
- (iii) Community infrastructure;
- (iv) Transportation; and
- (v) Educational institutions.

(6) Communities or areas which are economically, socially and communally integrated shall be considered in the aggregate.

(b) The Board shall periodically review rural determinations. Rural determinations shall be reviewed on a ten year cycle, commencing with the publication of the year 2000 U.S. census. Rural determinations may be reviewed out-of-cycle in special circumstances. Once the Board makes a determination that a community has changed from rural to non-rural, a waiting period of five years shall be required before the non-rural determination becomes effective.

(c) Current determinations are listed at § _____.23.

§ _____.16 Customary and traditional use determination process.

(a) The Board shall determine which fish stocks and wildlife populations have been customarily and traditionally used for subsistence. These determinations shall identify the specific community's or area's use of specific fish stocks and wildlife populations. For areas managed by the National Park Service, where subsistence uses are allowed, the determinations may be made on an individual basis.

(b) A community or area shall generally exhibit the following factors, which exemplify customary and traditional use. The Board shall make customary and traditional use determinations based on application of the following factors:

- (1) A long-term consistent pattern of use, excluding interruptions beyond the control of the community or area;
- (2) A pattern of use recurring in specific seasons for many years;
- (3) A pattern of use consisting of methods and means of harvest which are characterized by efficiency and economy of effort and cost, conditioned by local characteristics;
- (4) The consistent harvest and use of fish or wildlife as related to past methods and means of taking; near, or

reasonably accessible from the community or area;

(5) A means of handling, preparing, preserving, and storing fish or wildlife which has been traditionally used by past generations, including consideration of alteration of past practices due to recent technological advances, where appropriate;

(6) A pattern of use which includes the handing down of knowledge of fishing and hunting skills, values and lore from generation to generation;

(7) A pattern of use in which the harvest is shared or distributed within a definable community of persons; and

(8) A pattern of use which relates to reliance upon a wide diversity of fish and wildlife resources of the area and which provides substantial cultural, economic, social, and nutritional elements to the community or area.

(c) The Board shall take into consideration the reports and recommendations of any appropriate Regional Council regarding customary and traditional uses of subsistence resources.

(d) Current determinations are listed in § _____.24.

§ _____.17 Determining priorities for subsistence uses among rural Alaska residents.

(a) Whenever it is necessary to restrict the subsistence taking of fish and wildlife on public lands in order to protect the continued viability of such populations, or to continue subsistence uses, the Board shall establish a priority among the rural Alaska residents after considering any recommendation submitted by an appropriate Regional Council.

(b) The priority shall be implemented through appropriate limitations based on the application of the following criteria to each area, community, or individual determined to have customary and traditional use, as necessary:

(1) Customary and direct dependence upon the populations as the mainstay of livelihood;

(2) Local residency; and

(3) The availability of alternative resources.

(c) If allocation on an area or community basis is not achievable, then the Board shall allocate subsistence opportunity on an individual basis through application of the above criteria.

(d) In addressing a situation where prioritized allocation becomes necessary, the Board shall solicit recommendations from the Regional Council in the area affected.

§ _____.18 Regulation adoption process.

(a) Proposals for changes to the Federal subsistence regulations in Subpart D shall be accepted by the Board according to a published schedule, but at least once a year. The Board shall develop and publish proposed regulations in the **Federal Register** and publish notice in local newspapers. Comments on the proposed regulations in the form of proposals shall be distributed for public review.

(1) Proposals shall be made available for at least a thirty (30) day review by the Regional Councils. Regional Councils shall forward their recommendations on proposals to the Board. Such proposals with recommendations may be submitted in the time period as specified by the Board or as a part of the Regional Council's annual report described in § _____.11, whichever is earlier.

(2) The Board shall publish notice throughout Alaska of the availability of proposals received.

(3) The public shall have at least thirty (30) days to review and comment on proposals.

(4) After the comment period the Board shall meet to receive public testimony and consider the proposals. The Board shall consider traditional use patterns when establishing harvest levels and seasons, and methods and means. The Board may choose not to follow any recommendation which the Board determines is not supported by substantial evidence, violates recognized principles of fish and wildlife conservation, or would be detrimental to the satisfaction of subsistence needs. If a recommendation approved by a Regional Council is not adopted by the Board, the Board shall set forth the factual basis and the reasons for their decision in writing to the Regional Council.

(5) Following consideration of the proposals the Board shall publish final regulations pertaining to subpart D in the **Federal Register**.

(b) Proposals for changes to subpart C shall be accepted by the Board according to a published schedule. The Board shall develop and publish proposed regulations in the **Federal Register** and publish notice in local newspapers. Comments on the proposed regulations in the form of proposals shall be distributed for public review.

(1) Public and governmental proposals shall be made available for a thirty (30) day review by the regional councils. Regional Councils shall forward their recommendations on proposals to the Board. Such proposals with recommendations may be submitted in

the time period as specified by the Board or as a part of the Regional Council's annual report described in § _____.11, whichever is earlier.

(2) The Board shall publish notice throughout Alaska of the availability of proposals received.

(3) The public shall have at least thirty (30) days to review and comment on proposals.

(4) After the comment period the Board shall meet to receive public testimony and consider the proposals. The Board may choose not to follow any recommendation which the Board determines is not supported by substantial evidence, violates recognized principles of fish and wildlife conservation, or would be detrimental to the satisfaction of subsistence needs. If a recommendation approved by a Regional Council is not adopted by the Board, the Board shall set forth the factual basis and the reasons for their decision in writing to the Regional Council.

(5) Following consideration of the proposals the Board shall publish final regulations pertaining to subpart C in the *Federal Register*. A Board decision to change a community's or area's status from rural to non-rural will not become effective until five years after the decision has been made.

(c) [Reserved.]

(d) Proposals for changes to subparts A and B shall be accepted by the Secretary of the Interior in accordance with 43 CFR 14.1-4.

§ _____.19 Closures and other special actions.

(a) The Board may make or direct restriction or closure of the taking of fish and wildlife for non-subsistence uses on public lands when necessary to assure the continued viability of particular fish or wildlife population, to continue subsistence uses of a fish or wildlife population, or for reasons of public safety or administration.

(b) After consulting with the State of Alaska, providing adequate notice to the public, and holding at least one public hearing in the vicinity of the affected communities, the Board may make or direct temporary closures to subsistence uses of a particular fish or wildlife population on public lands to assure the continued viability of a fish or wildlife population, or for reasons of public safety or administration. A temporary closure will not extend beyond the regulatory year in which it is promulgated.

(c) In an emergency situation, the Board may direct immediate closures related to subsistence or non-subsistence uses of fish and wildlife on

public lands, if necessary to assure the continued viability of a fish or wildlife population, or for public safety reasons. The Board shall publish notice and reasons justifying the emergency closure in the *Federal Register* and in newspapers of any area affected. The emergency closure shall be effective when directed by the Board, may not exceed 60 days, and may not be extended unless it is determined by the Board, after notice and hearing, that such closure should be extended.

(d) The Board may make or direct a temporary change to open or adjust the seasons or to increase the bag limits for subsistence uses of fish and wildlife populations on public lands. An affected rural resident, community, Regional Council, or administrative agency may request a temporary change in seasons or bag limits. Prior to implementing a temporary change, the Board shall consult with the State, shall comply with the provisions of 5 U.S.C. 551-559 (Administrative Procedures Act or APA), and shall provide adequate notice and opportunity to comment. The length of any temporary change shall be confined to the minimum time period or bag limit determined by the Board to be necessary to satisfy subsistence uses. In addition, a temporary change may be made only after the Board determines that the proposed temporary change will not interfere with the conservation of healthy fish and wildlife populations. The decision of the Board shall be the final administrative action.

(e) Regulations authorizing any individual agency to direct temporary or emergency closures on public lands managed by the agency remain unaffected by these regulations, which authorize the Board to make or direct restrictions, closures, or temporary changes for subsistence uses on public lands.

(f) Taking fish and wildlife in violation of a restriction, or temporary change authorized by the Board is prohibited.

§ _____.20 Request for reconsideration.

(a) Subparts C and D regulations published in the *Federal Register* are subject to requests for reconsideration.

(b) Any aggrieved person may file a request for reconsideration with the Board.

(c) To file a request for reconsideration, the requestor must notify the Board in writing within sixty (60) days of the effective date or date of publication of the notice, whichever is earliest, for which reconsideration is requested.

(d) It is the responsibility of a requestor to provide the Board with sufficient narrative evidence and

argument to show why the action by the Board should be reconsidered. The following information must be included in the request for reconsideration:

(1) The requestor's name, and mailing address;

(2) The action for which reconsideration is requested and the date of *Federal Register* publication of that action;

(3) A detailed statement of how the requestor is adversely affected by the action;

(4) A detailed statement of the facts of the dispute, the issues raised by the request, and specific references to any law, regulation, or policy that the requestor believes to be violated and the reason for such allegation;

(5) A statement of how the requestor would like the action changed.

(e) Upon receipt of a request for reconsideration, the Board shall transmit a copy of such request to any appropriate Regional Council for review and recommendation. The Board shall consider any Regional Council recommendations in making a final decision.

(f) If the request is justified, the Board shall implement a final decision on a request for reconsideration after compliance with 5 U.S.C. 551-559 (APA).

(g) If the request is denied, the decision of the Board represents the final administrative action.

§ _____.21 [Reserved.]

Subpart C—Board Determinations

§ _____.22 Subsistence resource regions.

(a) The following areas are hereby designated as subsistence resource regions:

- (1) Southeast Region,
- (2) Southcentral Region,
- (3) Kodiak/Aleutians Region,
- (4) Bristol Bay Region,
- (5) Yukon-Kuskokwim Delta Region,
- (6) Western Interior Region,
- (7) Seward Peninsula Region,
- (8) Northwest Arctic Region,
- (9) Eastern Interior Region,
- (10) North Slope Region.

(b) Maps delineating the boundaries of subsistence resource regions are available from the U.S. Fish and Wildlife Service.

§ _____.23 Rural determinations.

(a) All communities and areas have been determined by the Board to be rural in accordance with § _____.15 except the following:

- Adak;
- Fairbanks North Star Borough;

Homer area—including Homer, Anchor Point, Kachemak City, and Fritz Creek;

Juneau area—including Juneau, West Juneau and Douglas;

Kenai area—including Kenai, Soldotna, Sterling, Nikiski, Salamatof, Kalifornsky, Kasilof, and Clam Gulch;

Ketchikan area—including Ketchikan City, Clover Pass, North Tongass Highway, Ketchikan East, Mountain

Pass, Herring Cove, Saxman East, and parts of Pennekot Island;

Municipality of Anchorage; Seward area—including Seward and Moose Pass; Valdez; and, Wasilla area—including Palmer, Wasilla, Sutton, Big Lake, Houston, and Bodenbergt Butte.

(2) Maps delineating the boundaries of non-rural areas listed in paragraph (a)(1) are available from the U.S. Fish and Wildlife Service.

(b) [Reserved.]

§ _____.24 Customary and traditional use determinations.

(a) Rural Alaska residents of the listed communities and areas have been determined to have customary and traditional subsistence use of the specified species on Federal public lands in the specified areas:

(1) *Wildlife determinations.*

| Area | Species | Determination |
|--|-----------------|--|
| GMU 1..... | Brown bear..... | No determination, except no subsistence for residents of Wrangell, Klukwan, Haines and Skagway. |
| 1(A)..... | Deer..... | Rural residents of 1(A) and 2. |
| 1(B)..... | Deer..... | Rural residents of GMU 1(A), residents of 1(B), 2, and 3. |
| 1(B)..... | Goat..... | No determination, except no subsistence for residents of Petersburg, Kupreanof and outlying areas. |
| 1(B) The Stikine River drainages only..... | Moose..... | Residents of Wrangell. |
| 1(B) North of the LeConte Glacier and 1(C) Berner's Bay..... | Moose..... | No subsistence. |
| 1(C)..... | Black bear..... | Rural residents of GMU 1(C) and Haines, Gustavus, Klukwan, and Hoonah. |
| 1(C)..... | Deer..... | Rural residents of 1 (C) and (D), and residents of Hoonah and Gustavus. |
| 1(C)..... | Goat..... | Residents of Haines, Klukwan, and Hoonah. |
| 1(D)..... | Deer..... | No subsistence. |
| 1(D)..... | Moose..... | Residents of GMU 1(D). |
| GMU 2..... | Brown bear..... | No subsistence. |
| 2..... | Deer..... | Rural residents of GMU 1(A) and residents of Units 2 and 3. |
| GMU 3..... | Deer..... | Residents of GMU 1(B) and 3, and residents of Port Alexander, Port Protection, Pt. Baker, and Meyer's Chuck. |
| GMU 4..... | Brown bear..... | Residents of GMU 4 and Kake. |
| 4..... | Deer..... | Residents of GMU 4 and residents of Kake, Gustavus, Haines, Petersburg, Pt. Baker, Klukwan, Port Protection, and Wrangell. |
| GMU 5..... | Brown bear..... | Residents of Yakutat. |
| 5..... | Deer..... | Residents of Yakutat. |
| 5..... | Moose..... | Residents of GMU 5(A). |
| GMU 6..... | Brown bear..... | No subsistence. |
| 6..... | Moose..... | No subsistence. |
| 6..... | Wolf..... | Residents of Units 6, 9, 10 (Unimak Island only), 11-13 and 16-26. |
| 6(A)..... | Black bear..... | Residents of Yakutat. |
| 6(B) and (C)..... | Black bear..... | Residents of GMU 6 (B) and (C), except Cordova. |
| 6(C) and (D)..... | Goat..... | Rural residents of GMU 6 (C) and (D). |
| 6(D)..... | Black bear..... | Residents of Chenega Bay and Tatilek. |
| GMU 7..... | Brown bear..... | No subsistence. |
| 7..... | Caribou..... | No subsistence. |
| 7..... | Moose..... | No subsistence. |
| 7..... | Sheep..... | No subsistence. |
| GMU 7, Brown Mountain hunt area..... | Goat..... | Residents of Port Graham and English Bay. |
| GMU 8..... | Brown bear..... | No subsistence. |
| 8..... | Deer..... | Residents of GMU 8. |
| 8..... | Elk..... | No subsistence. |
| 8..... | Goat..... | No subsistence. |
| GMU 9..... | Wolf..... | Residents of Units 6, 9, 10 (Unimak Island only), 11-13 and 16-26. |
| 9(A) and (B)..... | Caribou..... | Residents of Units 9(B), 9(C) and 17. |
| 9(A), (B), (C) and (E)..... | Moose..... | Residents of GMU 9 (A), (B), (C) and (E). |
| 9 (A), (C) and (D)..... | Brown bear..... | No subsistence. |
| 9(B)..... | Brown bear..... | Residents of GMU 9(B). |
| 9(C)..... | Caribou..... | Residents of GMU 9(B), 9(C), 17 and residents of Egegik. |
| 9(D)..... | Bison..... | No subsistence. |
| 9(D)..... | Caribou..... | Residents of GMU 9(D), and residents of False Pass. |
| 9(D)..... | Moose..... | No subsistence. |

| Area | Species | Determination |
|---|---|---|
| 9(E)..... | Brown bear..... | Residents of Chignik Lake, Ivanof Bay and Perryville. |
| 9(E)..... | Caribou..... | Residents of Units 9 (B), (C), (E), 17, and residents of Nelson Lagoon and Sand Point. |
| GMU 10 Unimak Island..... | Caribou..... | Residents of False Pass. |
| 10 Remainder..... | Caribou..... | No subsistence. |
| 10..... | Wolf..... | Residents of Units 6, 9, 10 (Unimak Island only), 11-13 and 16-26. |
| GMU 11..... | Bison..... | No subsistence. |
| 11..... | Brown Bear..... | No subsistence. |
| 11..... | Caribou..... | Mentasta Herd—residents of Units 11, 12 (along Nabesna Road) and 13 (A)-(D). |
| 11..... | Goat..... | No subsistence. |
| 11..... | Sheep..... | Residents of Chisana, Chistochina, Chitina, Copper Center, Gakona, Glennallen, Gulkana, Kenny Lake, McCarthy Road, Mentasta Lake, Mentasta Pass (milepost 79-110) Nabesna Road, Siana, McCarthy/South Wrangell/South Park, Tazlina, and Tonsina. However no subsistence for Cantwell, east Glenn Highway (milepost 110-180) and to milepost 14 on the Lake Louise Road, Homestead North, Homestead South, Lake Louise, Paxson, Sourdough, Tanacross, Tok, and west Glenn Highway (milepost 78-110). |
| 11..... | Moose..... | Residents of GMU 11, residents of GMU 12 (along Nabesna Road) and GMU 13 (A)-(D). |
| 11..... | Wolf..... | Residents of Units 6, 9, 10 (Unimak Island only), 11-13 and 16-26. |
| 11..... | Grouse (Spruce, Blue, Ruffed and Sharp-tailed)..... | Residents of Units 11, 13, 15, 16, 20(D), 22, and 23. |
| 11..... | Ptarmigan (Rock, Willow and White-tailed)..... | Residents of Units 11, 13, 15, 16, 20(D), 22, and 23. |
| GMU 12..... | Brown bear..... | No subsistence. |
| 12..... | Caribou-Nelchina Herd..... | Residents of Northway and Tetlin. |
| 12..... | Caribou-40 Mile Herd..... | Residents of GMU 12, north of Wrangell Park Preserve and rural residents of GMU 20 (D) and (E). |
| 12 South of a line from Noyes Mountain, southeast of the confluence of Tatschunda Creek to Nabesna River. | Moose..... | Residents of GMU 11 north of 62nd parallel and excluding BLM parcels of north and south Siana; and residents of GMU 12, 13 (A)-(D) and residents of Dot Lake. |
| 12 East of the Nabesna River, south of the Winter Trail from Pickerel Lake to the Canadian Border. | Moose..... | Residents of GMU 12. |
| 12 Remainder of GMU 12..... | Moose..... | Residents of GMU 12 and residents of Dot Lake and Mentasta Lake. |
| 12..... | Wolf..... | Residents of Units 6, 9, 10 (Unimak Island only), 11-13 and 16-26. |
| 12, Tok Management area..... | Sheep..... | No subsistence. |
| GMU 13..... | Brown bear..... | No subsistence. |
| 13..... | Caribou-Nelchina Herd..... | Residents of Units 11, 13, and 12 (along Nabesna Road). |
| 13 Tok and Delta Management Areas..... | Sheep..... | No subsistence. |
| 13..... | Moose..... | Residents of GMU 13. |
| 13..... | Wolf..... | Residents of Units 6, 9, 10 (Unimak Island only), 11-13 and 16-26. |
| 13..... | Grouse (Spruce, Blue, Ruffed & Sharp-tailed)..... | Residents of Units 11, 13, 15, 16, 20(D), 22 and 23. |
| 13..... | Ptarmigan (Rock, Willow and White-tailed)..... | Residents of Units 11, 13, 15, 16, 20(D), 22 and 23. |
| 13(D)..... | Goat..... | No subsistence. |
| 13(D)..... | Sheep..... | No subsistence. |
| 13(E)..... | Moose..... | No subsistence for residents of McKinley Village and the area along the Parks Highway between milepost 216 and 239 and households of the Denali National Park Headquarters. |
| GMU 14..... | Goat..... | No subsistence. |
| 14..... | Moose..... | No subsistence. |
| 14 (A) and (C)..... | Sheep..... | No subsistence. |
| 14 (B) and (C)..... | Brown bear..... | No subsistence. |
| GMU 15..... | Brown Bear..... | No subsistence. |
| 15..... | Grouse (Spruce, Blue, Ruffed and Sharp-tailed)..... | Residents of Units 11, 13, 15, 16, 20(D), 22 and 23. |
| 15..... | Ptarmigan (Rock, Willow and White-tailed)..... | Residents of Units 11, 13, 15, 16, 20(D), 22 and 23. |
| 15..... | Sheep..... | No subsistence. |
| 15 (A) and (B)..... | Moose..... | No subsistence. |
| 15(C), that portion southwest of a line from Point Pogibshi to the point of land between Rocky Bay and Windy Bay. | Moose..... | Residents of English Bay and Port Graham. |
| 15(C) The Port Dick and English Bay hunt areas..... | Moose..... | No subsistence. |
| 15(C) The Seldovia hunt area..... | Goat..... | Residents of Port Graham and English Bay. |
| 15(C) The Seldovia hunt area..... | Goat..... | Residents of Seldovia area. |
| GMU 16..... | Brown bear..... | No subsistence. |

| Area | Species | Determination |
|---|--|--|
| 16 | Sheep | No subsistence. |
| 16 | Wolf | Residents of Units 6, 9, 10 (Unimak Island only), 11-13 and 16-26. |
| 16 | Grouse (Spruce, Blue, Ruffed and Sharp-tailed) | Residents of Units 11, 13, 15, 16 20(D), 22, and 23. |
| 16 | Ptarmigan (Rock, Willow and White-tailed) | Residents of Units 11, 13, 15, 16, 20(D), 22, and 23. |
| 16(A) | Moose | No subsistence. |
| 16(B) | Moose | Residents of GMU 16(B). |
| GMU 17 | Caribou | Residents of Units 9(B), 17 and residents of Lime Village and Stony River. |
| 17 | Wolf | Residents of Units 6, 9, 10 (Unimak Island only), 11-13 and 16-26. |
| 17(A) | Brown bear | Residents of GMU 17, and residents of Goodnews Bay and Platinum. |
| 17(A) | Moose | Residents of GMU 17 and residents of Goodnews Bay and Platinum. |
| 17 (A) and (B) Those portions north and west of a line beginning from the GMU 18 boundary at the northwest end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast to the northern point of Nuyakuk Lake, northeast to the point where the GMU 17 boundary intersects the Shotgun Hills. | Brown bear | Residents of Kwethluk. |
| 17 (A) and (B) Those portions north and west of a line beginning from the GMU 18 boundary at the northwest end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast to the northern point of Nuyakuk Lake, northeast to the point where the GMU 17 boundary intersects the Shotgun Hills. | Caribou | Residents of Kwethluk. |
| 17 (A) and (B) Those portions north and west of a line beginning from the GMU 18 boundary at the northwest end of Nenevok Lake, to the southern point of upper Togiak Lake, and northeast to the northern point of Nuyakuk Lake, northeast to the point where the GMU 17 boundary intersects the Shotgun Hills. | Moose | Residents of Kwethluk. |
| 17 (B) and (C) | Brown bear | Residents of GMU 17. |
| 17 (B) and (C) | Moose | Residents of GMU 17, and residents of Nondalton, Levelock, Goodnews Bay and Platinum. |
| GMU 18 | Brown bear | Residents of Akiachak, Akiak, Eek, Goodnews Bay, Kwethluk, Mt. Village, Napaskiak, Platinum, Quinhagak, St. Mary's, and Tuluksak. |
| 18 | Caribou (Kilbuck caribou herd only) | Interim determination by Federal Subsistence Board (12/18/91): Residents of Tuluksak, Akiak, Akiachak, Kwethluk, Bethel, Oscarville, Napaskiak, Napakiak, Kasigluk, Atmanthluak, Nunapitchuk, Tun-tutliak, Eek, Quinhagak, Goodnews Bay, Platinum, Togiak, and Twin Hills. |
| 18 | Caribou (except Kilbuck caribou herd) | Residents of Kwethluk. |
| 18 | Moose | Residents of GMU 18 and residents of Upper Kalskag. |
| 18 | Muskox | No subsistence. |
| 18 | Wolf | Residents of Units 6, 9, 10 (Unimak Island only), 11-13 and 16-26. |
| GMU 19 | Wolf | Residents of Units 6, 9, 10 (Unimak Island only), 11-13 and 16-26. |
| 19(A) | Brown bear | Residents of GMU 19(A), (D), and Residents of Tuluksak, Lower Kalskag and Kwethluk. |
| 19 (A) and (B) | Moose | Residents of GMU 18 within Kuskokwim River drainage upstream from and including the Johnson River, and GMU 19. |
| 19 (A) and (B) | Caribou | Residents of GMU 19 (A) and (B) and Kwethluk; and residents of GMU 18 in Kuskokwim Drainage and Kuskokwim Bay during the winter season. |
| 19(B) | Brown bear | Residents of Kwethluk. |
| 19(C) | Brown Bear | No subsistence. |
| 19(C) | Caribou | Residents of GMU 19(C), and residents of Lime Village, McGrath, Nikolai, and Telida. |
| 19(C) | Moose | Residents of GMU 19. |
| 19 (C), (D) | Bison | No subsistence. |
| 19(D) | Brown bear | Residents of GMU 19 (A) and (D), and residents of Tulusak and Lower Kalskag. |
| 19(D) | Caribou | Residents of GMU 19(D), and residents of Lime Village, Sleetmute and Stony River. |
| 19(D) | Moose | Residents of GMU 19 and residents of Lake Minchumina. |
| GMU 20 | Wolf | Residents of Units 6, 9, 10 (Unimak Island only), 11-13 and 16-26. |

| Area | Species | Determination |
|---|--|--|
| 20(A)..... | Moose..... | Residents of Cantwell, Minto, and Nenana. No subsistence for residents of McKinley Village, the area along the Parks Highway between mileposts 216 and 239 and households of the Denali National Park Headquarters. |
| 20 (A), (C) (Delta, Yanert, and 20(C) herds) and (D)..... | Caribou..... | No determination, except no subsistence for residents of McKinley Village, the area along the Parks Highway between mileposts 216 and 239 and households of the Denali National Park Headquarters. |
| 20(B)..... | Moose..... | Minto Flats Management Area—residents of Minto and Nenana. |
| 20(B)..... | Moose..... | Remainder—rural residents of GMU 20(B), and residents of Nenana and Tanana. |
| 20(C)..... | Moose..... | Rural residents of GMU 20(C) (except that portion within Denali National Park and Preserve and that portion east of the Teklanika River), and residents of Cantwell, Manley, Minto, Nenana, the Parks Highway from milepost 300-309, Nikolai, Tanana and Telida. No subsistence for residents of McKinley Village, the area along the Parks Highway between mileposts 216 and 239 and households of the Denali National Park Headquarters. |
| 20(D)..... | Moose..... | Rural residents of GMU 20(D) and residents of Tanacross. |
| 20(D)..... | Bison..... | No subsistence. |
| 20(D)..... | Grouse, (Spruce, Blue, Ruffed and Sharp-tailed)..... | Residents of Units 11, 13, 15, 16, 20(D), 22 and 23. |
| 20(D)..... | Ptarmigan (Rock, Willow and White-tailed)..... | Residents of Units 11, 13, 15, 16, 20(D), 22 and 23. |
| 20 Tok and Delta Management Areas..... | Sheep..... | No subsistence. |
| 20(D) and 20(E)..... | Caribou 40-Mile Herd..... | Residents of GMU 12 north of Wrangell Park-Preserve, rural residents of 20(D) and residents of 20(E). |
| 20(E)..... | Brown bear..... | No subsistence. |
| 20(F)..... | Moose..... | Residents of GMU 20(F), Manley, Minto and Stevens Village. |
| GMU 21..... | Brown bear..... | Rural residents of GMU 21 and 23. |
| 21..... | Wolf..... | Residents of Units 6, 9, 10 (Unimak Island only), 11-13 and 16-26. |
| 21..... | Caribou, Western Arctic Caribou Herd only..... | Residents of GMU 21(D) west of the Koyukuk and Yukon Rivers, and residents of 22(A), (B), 23, 24, and 26(A). |
| 21(A)..... | Moose..... | Residents of GMU 21 (A), (E), Takotna, McGrath, Aniak and Crooked Creek. |
| 21 (A) and (E)..... | Caribou..... | Residents of GMU 21(A) and Aniak, Chuathbaluk, Crooked Creek, Grayling, Holy Cross, McGrath, Shageluk and Takotna. |
| 21 (B) and (C)..... | Moose..... | Residents of GMU 21 (B) and (C), residents of Tanana and Galena. |
| 21(D)..... | Moose..... | Residents of GMU 21(D), and residents of Huslia and Ruby. |
| 21(E)..... | Moose..... | Residents of GMU 21(E) and residents of Russian Mission. |
| GMU 22..... | Brown bear..... | Residents of GMU 22. |
| 22..... | Caribou, Western Arctic Caribou Herd only..... | Residents of GMU 21(D) west of the Koyukuk and Yukon Rivers, and residents of Units 22(A), (B), 23, 24, and 26(A). |
| 22..... | Moose..... | Residents of GMU 22. |
| 22..... | Wolf..... | Residents of Units 6, 9, 10 (Unimak Island only), 11-13 and 16-26. |
| 22..... | Grouse (Spruce, Blue, Ruffed and Sharp-tailed)..... | Residents of Units 11, 13, 15, 16, 20(D), 22 and 23. |
| 22..... | Ptarmigan (Rock, Willow and White-tailed)..... | Residents of Units 11, 13, 15, 16, 20(D), 22, and 23. |
| 22 (D), (E)..... | Muskox..... | No subsistence. |
| GMU 23..... | Brown bear..... | Rural residents of Units 21 and 23. |
| 23..... | Caribou Western Arctic Caribou Herd only..... | Residents of GMU 21(D) west of the Koyukuk and Yukon Rivers, and residents of GMU 22(A), (B), 23, 24, and 26(A). |
| 23..... | Muskox..... | No subsistence. |
| 23..... | Sheep..... | Residents of GMU 23 north of the Arctic Circle. |
| 23..... | Moose..... | Residents of GMU 23. |
| 23..... | Wolf..... | Residents of Units 6, 9, 10 (Unimak Island only), 11-13 and 16-26. |
| 23..... | Grouse (Spruce, Blue, Ruffed and Sharp-tailed)..... | Residents of Units 11, 13, 15, 16, 20(D), 22 and 23. |
| 23..... | Ptarmigan (Rock, Willow and White-tailed)..... | Residents of Units 11, 13, 15, 16, 20(D), 22 and 23. |
| GMU 24..... | Brown bear..... | Residents of GMU 24 and Wiseman, but not including any other residents of the Dalton Highway Corridor Management Area. |

| Area | Species | Determination |
|-----------------|--|---|
| 24 | Sheep | Residents of GMU 24 residing north of the Arctic Circle and residents of Allakaket, Alatna and Anaktuvuk Pass. |
| 24 | Moose | Residents of GMU 24, and residents of Anaktuvuk Pass, Koyukuk, and Galena. |
| 24 | Wolf | Residents of Units 6, 9, 10 (Unimak Island only), 11-13 and 16-26. |
| GMU 25 | Brown bear | No subsistence. |
| 25 | Wolf | Residents of Units 6, 9, 10 (Unimak Island only), 11-13 and 16-26. |
| 25(A) | Sheep | Residents of Arctic Village, Chalkytsik, Fort Yukon, Kaktovik and Venetie. |
| 25(A) | Moose | Residents of GMU 25(A) and residents of Venetie only. |
| 25(B) and (C) | Sheep | No subsistence. |
| 25(D) West | Moose | Residents of Beaver, Birch Creek and Stevens Village. |
| 25(D) Remainder | Moose | Residents of "Remainder of GMU 25". |
| GMU 26 | Brown bear | Residents of GMU 26 (except the Prudhoe Bay-Deadhorse Industrial Complex) and residents of Anaktuvuk Pass and Point Hope. |
| 26 | Caribou Western Arctic Caribou Herd only | Residents of GMU 21(D) west of the Koyukuk and Yukon Rivers, and residents of Units 22(A), (B), 23, 24, and 26(A). |
| 26 | Moose | Residents of GMU 26, (except the Prudhoe Bay-Deadhorse Industrial Complex), and residents of Point Hope and Anaktuvuk Pass. |
| 26 | Wolf | Residents of Units 6, 9, 10 (Unimak Island only), 11-13 and 16-26. |
| 26(A) | Muskox | No subsistence. |
| 26 (A) and (B) | Sheep | Residents of Anaktuvuk Pass, Kaktovik, Nuiqsut and Wiseman. |
| 26(B) | Caribou Central Arctic Herd | Residents of Anaktuvuk Pass, Kaktovik, Nuiqsut and Wiseman. |
| 26 (B) and (C) | Musk Oxen | Residents of Kaktovik. |
| 26(C) | Sheep | Residents of Arctic Village, Chalkytsik, Fort Yukon, Kaktovik and Venetie. |

(2) Fish and shellfish determinations.

| Area | Species | Determination |
|---|---|---|
| Kotzebue-Northern Area-Northern District | All finfish | Residents of the Northern District, except for those domiciled in State of Alaska GMU 26-B. |
| Kotzebue-Northern Area-Kotzebue District | Salmon, shellfish, char | Residents of the Kotzebue District. |
| Norton Sound-Port Clarence Area | Salmon | Residents of the Norton Sound-Port Clarence Area. |
| Yukon Area | Salmon | Residents of the Yukon Area, including the community of Stebbins. |
| Yukon Area | Yukon River Fall chum salmon | Residents of the Yukon River drainage, including the communities of Stebbins, Scammon Bay, Hooper Bay, and Chevak. |
| Yukon Area | Freshwater fish species, including sheefish, whitefish, lamprey, burbot, sucker, grayling, pike, char, and blackfish. | Residents of the Yukon Area. |
| Kuskokwim Area | Salmon | Residents of the Kuskokwim Area, except those persons residing on the United States military installation located on Cape Newenham, Sparrevohn USAFB, and Tatalina USAFB. |
| Kuskokwim Area | Pacific cod | Residents of the communities of Chevak, Newtok, Tununak, Toksook Bay, Nightmute, Cheforak, Kipruk, Mekoryuk, Kwigillingok, Kongiganak, Eek, and Tuntutuliak. |
| Kuskokwim Area-Waters adjacent to the westernmost tip of the Naskonant Peninsula and the terminus of the Ishowik River and around Nunivak Island. | Herring and herring roe | Residents within 20 miles of the coast between the westernmost tip of the Naskonant Peninsula and the terminus of the Ishowik River and on Nunivak Island. |
| Bristol Bay Area-Nushagak District, including drainages flowing into the district. | Salmon | Residents of the Nushagak District and freshwater drainages flowing into the district. |
| Bristol Bay Area-Naknek-Kvichek District-Naknek River drainage. | Salmon | Residents of the Naknek and Kvichek River drainages. |
| Bristol Bay Area-Naknek-Kvichek District-Iliamna-Lake Clark drainage. | Salmon | Residents of the Iliamna-Lake Clark drainage. |

| Area | Species | Determination |
|--|---|--|
| Bristol Bay Area—Togiak District, including drainages flowing into the district. | Salmon and other freshwater finfish..... | Residents of the Togiak District, freshwater drainages flowing into the district, and the community of Manokotak. |
| Kodiak Area—except the Mainland District, all waters along the southside of the Alaska Peninsula bounded by the latitude of Cape Douglas (58°52' North latitude) mid-stream Shelikof Strait, and west of the longitude of the southern entrance of Kmuya Bay near Kilokak Rocks (57°11'22" North latitude, 156°20'30" W longitude.). | Salmon..... | Residents of the Kodiak Island Borough, except those residing on the Kodiak Coast Guard Base. |
| Kodiak Area—except the Semidi Island, the North Mainland, and the South Mainland Sections. | King crab..... | Residents of the Kodiak Island Borough except those residents on the Kodiak Coast Guard base. |
| Cook Inlet Area—Port Graham Sub-District..... | Dolly Varden..... | Residents of Port Graham and English Bay. |
| Cook Inlet Area—Port Graham Sub-District and Koyukotik Sub-District. | Salmon..... | Residents of Port Graham and English Bay. |
| Cook Inlet Area—Tyonek Sub-District..... | Salmon..... | Residents of the village of Tyonek. |
| Prince William Sound Area—South-Western District and Green Island. | Salmon..... | Residents of the Southwestern District which is mainland waters from the outer point on the north shore of Granite Bay to Cape Fairfield, and Knight Island, Chenega Island, Bainbridge Island, Evans Island, Elrington Island, Latouche Island and adjacent islands. |
| Prince William Sound Area—North of a line from Porcupine Point to Granite Point, and south of a line from Point Lowe to Tongue Point. | Salmon..... | Residents of the villages of Tatitlek and Ellamar. |
| Yakutat Area—Freshwater upstream from the terminus of streams and rivers of the Yakutat Area from the Doame River to the Tsiu River. | Salmon..... | Residents of the area east of Yakutat Bay, including the islands within Yakutat Bay, west of the Situk River drainage, and south of and including Knight Island. |
| Yakutat Area—Freshwater upstream from the terminus of streams and rivers of the Yakutat Area from the Doame River to Point Manby. | Dolly Varden char, steelhead trout, and smelt..... | Residents of the area east of Yakutat Bay, including the islands within Yakutat Bay, west of the Situk River drainage, and south of and including Knight Island. |
| South-Eastern Alaska Area—District 1—Section 1-E in waters of the Naha River and Roosevelt Lagoon. | Salmon and Dolly Varden char..... | Residents of the City of Saxman. |
| South-Eastern Alaska Area—District 1—Section 1-F in Boca de Quadra in waters of Sockeye Creek and Hugh Smith Lake within 500 yards of the terminus of Sockeye Creek. | Salmon and Dolly Varden char..... | Residents of the City of Saxman. |
| South-Eastern Alaska Area—District 2—North of the latitude of the northern-most tip of Chasina Point and west of a line from the northern-most tip of Chasina Point to the eastern-most tip of Grindall Island to the eastern-most tip of the Kasaan Peninsula. | Salmon and Dolly Varden char..... | Residents of the City of Kasaan and in the drainage of the southeastern shore of the Kasaan Peninsula west of 132° 20' W. long. and east of 132° 25' W. long. |
| South-Eastern Alaska Area—District 3—Section 3-A... | Salmon and Dolly Varden char..... | Residents of the townsite of Hydaburg. |
| South-Eastern Alaska Area—District 3—Section 3-B in waters east of a line from Point Ildefonso to Tranquil Point. | Salmon, Dolly Varden char, and steelhead trout..... | Residents of the City of Klawock and on Prince of Wales Island within the boundaries of the Klawock Heenya Corporation land holdings as they exist in January 1989, and those residents of the City of Craig and on Prince of Wales Island within the boundaries of the Shan Seet Corporation land holdings as they exist in January 1989. |
| South-Eastern Alaska Area—District 3—Section 3-C in waters of Sarkar Lakes. | Salmon, Dolly Varden char, and steelhead trout..... | Residents of the City of Klawock and on Prince of Wales Island within the boundaries of the Klawock Heenya Corporation land holdings as they exist in January 1989, and those residents of the City of Craig and on Prince of Wales Island within the boundaries of the Shan Seet Corporation land holdings as they exist in January 1989. |
| South-Eastern Alaska Area—District 5—North of a line from Point Barrie to Boulder Point. | Salmon and Dolly Varden char..... | Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor. |
| South-Eastern Alaska Area—District 9—Section 9-A... | Salmon and Dolly Varden char..... | Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor. |
| South-Eastern Alaska Area—District 9—Section 9-B north of the latitude of Swain Point. | Salmon and Dolly Varden char..... | Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor. |
| South-Eastern Alaska Area—District 10—West of a line from Pinta Point to False Point Pybus. | Salmon and Dolly Varden char..... | Residents of the City of Kake and in Kupreanof Island drainages emptying into Keku Strait south of Point White and north of the Portage Bay boat harbor. |

| Area | Species | Determination |
|---|--|--|
| South-Eastern Alaska Area—District 12—South of a line from Fishery Point to south Passage Point and north of the latitude of Point Caution. | Salmon and Dolly Varden char..... | Residents of the City of Angoon and along the western shore of Admiralty Island north of the latitude of Sand Island, south of the latitude of Thayer Creek, and west of 134° 30' W. long., including Killisnoo Island. |
| South-Eastern Alaska Area—District 13—Section 13-A south of the latitude of Cape Edward. | Sockeye salmon..... | Residents of the City and Borough of Sitka in drainages which empty into Section 13-B north of the latitude of Dorothy Narrows. |
| South-Eastern Alaska Area—District 13—Section 13-B north of the latitude of Redfish Cape. | Sockeye salmon..... | Residents of the City and Borough of Sitka in drainages which empty into Section 13-B north of the latitude of Dorothy Narrows. |
| South-Eastern Alaska Area—District 13—Section 13-C. | Sockeye salmon..... | Residents of the City and Borough of Sitka in drainages which empty into Section 13-B north of the latitude of Dorothy Narrows. |
| South-Eastern Alaska Area—District 13—Section 13-C east of the longitude of Point Elizabeth. | Salmon and Dolly Varden char..... | Residents of the City of Angoon and along the western shore of Admiralty Island north of the latitude of Sand Island, south of the latitude of Thayer Creek, and west of 134° 30' W. long., including Killisnoo Island. |
| South-Eastern Alaska Area—District 14—Section 14-B and 14-C. | Salmon, smelt and Dolly Varden char..... | Residents of the City of Hoonah and in Chichagof Island drainages on the eastern shore of Port Frederick from Gartina Creek to Point Sophia. |
| South-Eastern Alaska Area—District 15—Chilkat and Chilkoot Rivers. | Salmon and smelt..... | Residents west of the Haines highway between Mile 20 and Mile 24 and east of the Chilkat River, but not elsewhere in Klukwan; and, those residents of other areas of the city and borough of Haines, excluding residents in the drainage of Excursion Inlet. |

For the reasons set out in the preamble, chapter I, subchapter H of title 50 and chapter II of title 36 of the Code of Federal Regulations are amended as follows:

TITLE 36—PARKS, FORESTS AND PUBLIC PROPERTY

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

1. The authority citation for part 242 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

2. Subparts A, B, and C of part 242 of title 36 are revised as set forth at the end of the common rule.

PART 242—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

Subpart A—General Provisions

Sec.

- 242.1 Purpose.
- 242.2 Authority.
- 242.3 Applicability and scope.
- 242.4 Definitions.
- 242.5 Eligibility for subsistence use.
- 242.6 Licenses, permits, harvest tickets, tags, and reports.
- 242.7 Restriction on use.
- 242.8 Penalties.
- 242.9 Information collection requirements.

Subpart B—Program Structure

- 242.10 Federal Subsistence Board.
- 242.11 Regional advisory councils.
- 242.12 Local advisory committees.
- 242.13 Board/agency relationships.

- 242.14 Relationship to State procedures and regulations.
- 242.15 Rural determination process.
- 242.16 Customary and traditional use determination process.
- 242.17 Determining priorities for subsistence uses among rural Alaska residents.
- 242.18 Regulation adoption process.
- 242.19 Closures and other special actions.
- 242.20 Request for reconsideration.
- 242.21 [Reserved.]

Subpart C—Board Determinations

- 242.22 Subsistence resource regions.
- 242.23 Rural determinations.
- 242.24 Customary and traditional use determinations.

TITLE 50—WILDLIFE AND FISHERIES

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

1. The authority citation for part 100 is revised to read as follows:

Authority: 5 U.S.C. Appendix 1–15, 16 U.S.C. 3, 472, 551, 668dd; 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

2. Subparts A, B, and C of part 100 of title 50 are revised as set forth at the end of the common rule.

PART 100—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

Subpart A—General Provisions

Sec.

- 100.1 Purpose.
- 100.2 Authority.
- 100.3 Applicability and scope.
- 100.4 Definitions.

Sec.

- 100.5 Eligibility for subsistence use.
- 100.6 Licenses, permits, harvest tickets, tags, and reports.
- 100.7 Restriction on use.
- 100.8 Penalties.
- 100.9 Information collection requirements.

Subpart B—Program Structure

- 100.10 Federal Subsistence Board.
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Dated: May 8, 1992.

Richard N. Smith,

Acting Director, U.S. Fish and Wildlife Service.

Michael A. Barton,

Regional Forester, USDA—Forest Service.
[FR Doc. 92–12470 Filed 5–28–92; 8:45 am]

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Registered

Friday
May 29, 1992

Part VIII

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 821

Medical Devices; Device Tracking; Rule and Proposed Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 821

[Docket No. 91N-0296]

Medical Devices; Device Tracking

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; notification of status under the Safe Medical Devices Act; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule to establish a device tracking requirement for certain categories of medical devices as required by the Safe Medical Devices Act of 1990 (the SMDA). In a proposed rule issued on May 27, 1992, and published elsewhere in this issue of the *Federal Register*, FDA discussed the agency's initial review of certain comments received in response to an earlier proposed rule that published in the *Federal Register* of March 27, 1992 (57 FR 10702), that has been withdrawn. In issuing this final rule, FDA is providing notice that the proposed rule published elsewhere in this issue of the *Federal Register* now has the status of a final rule by operation of section 3(c)(2) of the SMDA. FDA is also confirming that the effective date of this rule is March 1, 1993.

This rule applies to all devices subject to tracking under the SMDA that are initially introduced into interstate commerce or presented for importation into the United States on or after March 1, 1993.

In the proposed rule published elsewhere in this issue of the *Federal Register*, FDA requests comments on that proposal. Upon closure of the comment period for that proposed rule and consideration of comments responding to both the original March 27, 1992, proposed rule and the new proposed rule, FDA will, if necessary, take further actions to revise the rule.

EFFECTIVE DATE: This rule becomes effective March 1, 1993.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION:

I. Background

The SMDA (Pub. L. 101-629), which became law on November 28, 1990,

added section 519(e) (21 U.S.C. 360i(e)) to the act as codified at 21 U.S.C. 321-393. Section 519(e) of the act requires that manufacturers track certain devices from the manufacturer through the distribution chain to the patient using the device. Under section 519(e) of the act, manufacturers must track life-supporting or life-sustaining devices that are used outside a device user facility and permanently implantable devices, if the failure of these devices would be reasonably likely to have serious adverse health consequences. Section 519(e) of the act also gives FDA the authority to designate other devices which must be tracked by their manufacturers.

Under section 3(c)(A)(ii) of the SMDA, FDA was to have issued proposed regulations implementing section 519(e) of the act within 9 months of enactment of the SMDA (by August 28, 1991). Under section 3(c)(2) of the SMDA, FDA is to issue final regulations not later than 18 months after the date of enactment of the SMDA (by May 28, 1992). However, section 3(c)(2) of the SMDA also provides that, if FDA does not promulgate final tracking regulations by May 28, 1992, that

the Congress finds that there is good cause for the proposed regulations to be considered as the final regulations without response to comment because the implementation of . . . [section 519(e)] of the act [is] essential to protect the health of patients who use such devices. Consequently, in such event, the proposed regulations issued under paragraph (1) shall become final regulations as of the expiration of such 18 months. There shall be promptly published in the *Federal Register* notice of the new status of the proposed regulations.

(The SMDA, section 3(c)(2).)

On March 27, 1992 (57 FR 10702), FDA published a proposed rule in the *Federal Register* that outlined FDA's preliminary views as to recordkeeping and reporting requirements necessary to ensure that tracking serves its purpose—ensuring that manufacturers can, after devices have been distributed, promptly locate the device and the user of the device if FDA orders a recall or patient notification due to serious adverse health consequences or unreasonable risks of substantial harm to the public health associated with the use of the device. To that end, the March 27, 1992, proposal applied to manufacturers and those persons involved in the distribution of tracked devices, including distributors, pharmacies, hospitals, and doctors.

The period for submitting comments in response to the March 27, 1992, proposal closed on May 26, 1992. As discussed in the preamble to the

proposed rule, by May 15, 1992, the agency had received over 400 comments and expected to receive more comments before the close of the comment period. Given the statutory deadline, FDA did not have sufficient time to fully consider and respond to all comments and to issue a final rule that reflected such a consideration and response to the comments by May 28, 1992, the date upon which proposed tracking regulations become final regulations under section 3(c)(2) of the SMDA. However, the proposal published elsewhere in this issue of the *Federal Register*, and the identical text of the final regulations in this document, reflect FDA's reconsideration of aspects of the proposed regulations in light of the comments filed on the March 27, 1992, proposed regulation and reviewed thus far and thus include revised provisions to ensure effective implementation of the statutory tracking requirements. Accordingly, the final rule incorporates the revisions that FDA has determined, based on comments reviewed thus far, are necessary. The agency will review all comments and, if necessary, take further action.

To the extent still applicable, the basis, purpose, authority discussion, and other explanations in the preamble to the March 27 proposal, as well as the proposal published elsewhere in this issue of the *Federal Register*, apply to this final rule.

II. Effective Date

In the March 27, 1992 proposal, FDA proposed that the effective date of the regulation would be 30 days after the date of the publication of the final rule or May 28, 1992, whichever occurred first. FDA also stated that section 519(e) of the act would go into effect on the date that the final regulations go into effect or May 28, 1992, whichever occurs first. As discussed in the preamble to the proposed rule published elsewhere in this issue of the *Federal Register*, FDA has reconsidered the proposed effective date in the March 27, 1992, proposal and has determined that it is appropriate, under the circumstances present here, to extend the effective date of the final rule until March 1, 1993. Under section 3(b)(3) of the SMDA, therefore, section 519(e) of the act will be effective on March 1, 1993.

Thus, on and after March 1, 1993, manufacturers and importers of devices subject to tracking will be required to have in place the written standard operating procedures (SOP's) required under § 821.25(c), and these SOP's should be made available to all who are responsible for implementing and

maintaining the tracking system. FDA will regard the failure to have the required written SOP in place as a violation of sections 301 and 502 of the act.

Starting March 1, 1993, FDA also expects manufacturers and importers to make a good faith effort to comply with the remaining provisions of the proposed regulation. FDA, however, recognizes that, for the first 6 to 12 months of tracking, manufacturers, distributors, multiple distributors, and final distributors will be fine-tuning their procedures for tracking based on their initial experiences. Thus, to determine "good faith," FDA will look at whether efforts to comply are documented after the first two audits and whether persons subject to tracking are taking immediate steps to correct any shortcomings identified by the first two audits. While FDA will not specifically schedule inspections for the purpose of reviewing a tracking system during the early stages of implementation, FDA will review tracking systems and records during regularly scheduled current good manufacturing practice (CGMP) inspections.

In order to meet the publication requirements of the Office of the Federal Register, the text of the medical device tracking regulation for inclusion in the Code of Federal Regulations is being published in identical form in both this final rule and in the proposed rule published elsewhere in this issue of the Federal Register.

List of Subjects in 21 CFR Part 821

Device tracking, Medical devices, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 821 is added to read as follows:

PART 821—MEDICAL DEVICE TRACKING REQUIREMENTS

Subpart A—General Provisions

Sec.

- 821.1 Scope.
- 821.2 Exemptions and variances.
- 821.3 Definitions.
- 821.4 Imported devices.

Subpart B—Tracking Requirements

- 821.20 Devices subject to tracking.
- 821.25 Device tracking system and content requirements: manufacturer requirements.

Subpart C—Additional Requirements and Responsibilities

- 821.30 Tracking obligations of persons other than device manufacturers: distributor requirements.

Subpart D—Records and Inspections

- 821.50 Availability.
- 821.55 Confidentiality.
- 821.60 Retention of records.

Authority: Secs. 301, 501, 502, 510, 515, 518, 519, 701, and 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331, 351, 352, 360, 360e, 360h, 360i, 371, and 374).

Subpart A—General Provisions

§ 821.1 Scope.

(a) The regulations in this part implement section 519(e) of the Federal Food, Drug, and Cosmetic Act (the act) which requires the adoption of a method of device tracking by any person who registers under section 510 of the act and is engaged in the manufacture and distribution of devices the failure of which would be reasonably likely to have serious adverse health consequences if the devices are life-sustaining or life-supporting devices used outside of a device user facility or are permanently implantable devices. This part also applies to any other device that the Food and Drug Administration (FDA) designates as requiring a method of tracking to protect the public health. A device subject to this part either by statutory requirement or by FDA designation is referred to herein as a *tracked device*.

(b) These regulations are intended to ensure that tracked devices can be traced from the device manufacturing facility to the person for whom the device is indicated, that is, the patient. Effective tracking of devices from the manufacturing facility, through the distributor network (including distributors, retailers, rental firms and other commercial enterprises, device user facilities and licensed practitioners) and, ultimately, to any person for whom the device is intended is necessary for the effectiveness of remedies prescribed by the act, such as patient notification (section 518(a) of the act) or device recall (section 518(e) of the act). Although these regulations do not preclude a manufacturer from involving outside organizations in that manufacturer's device tracking effort, the legal responsibility for complying with this part rests with manufacturers who must register under section 510 of the act, and that responsibility cannot be altered, modified, or in any way abrogated by contracts or other agreements.

(c) Each manufacturer of a tracked device shall implement a method of tracking devices by March 1, 1993.

(d) The primary burden for ensuring that the tracking system works rests upon the manufacturer. A manufacturer or any other person, including a distributor, final distributor, or multiple distributor, who distributes a device subject to tracking who fails to comply with any applicable requirement of section 519(e) of the act or of this part, or any person who causes such failure, misbrands the device within the meaning of section 502(t)(2) of the act and commits a prohibited act within the meaning of sections 301(e) and 301(q)(1)(B) of the act.

(e) Any person subject to this part who permanently discontinues doing business is required to notify FDA at the time the person notifies any Government agency, court, or supplier, and provide FDA with a complete set of its tracking records and information. However, if a person ceases distribution of a tracked device but continues to do other business, that person continues to be responsible for compliance with this part unless another person, affirmatively and in writing, assumes responsibility for continuing the tracking of devices previously distributed under this part. Further, if a person subject to this part goes out of business completely, but other persons acquire the right to manufacture or distribute tracked devices, those other persons are deemed to be responsible for continuing the tracking responsibility of the previous person under this part.

§ 821.2 Exemptions and variances.

(a) A manufacturer, importer, distributor, or other interested person (including a trade association) may seek an exemption or variance from one or more requirements of this part.

(b) A request for an exemption or variance shall be submitted in the form of a petition under § 10.30 of this chapter and shall comply with the requirements set out therein, except that a response shall be issued in 90 days. The Director, Office of Compliance and Surveillance, Center for Devices and Radiological Health (CDRH), shall issue responses to requests under this section. The petition shall also contain the following:

(1) The name of the device and device class and representative labeling showing the intended use(s) of the device;

(2) The reasons that compliance with the tracking requirements of this part is unnecessary;

(3) A complete description of alternative steps that are available, or

that the petitioner has already taken, to ensure that an effective tracking system is in place; and

(4) Other information justifying the exemption or variance.

(c) An exemption or variance is not effective until the Director, Office of Compliance and Surveillance, CDRH, approves the request under §10.30(e)(2)(i) of this chapter.

(d) For petitions received under this section before November 1, 1992, FDA will, by February 1, 1993, approve or disapprove the petition or extend the effective date of this part for the device that is the subject of the petition. Any extension that FDA grants to the effective date will be based upon the additional time FDA needs to complete its review of the petition.

§821.3 Definitions.

The following definitions and terms apply to this part:

(a) *Act* means the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321 *et seq.*, as amended.

(b) *Importer* means the initial distributor of an imported device who is required to register under section 510 of the act and §807.20 of this chapter.

Importer does not include anyone who only performs a service for the person who furthers the marketing, i.e., brokers, jobbers, or warehousemen.

(c) *Manufacturer* means any person, including any importer, repacker, or relabeler, who manufactures, prepares, propagates, compounds, assembles, or processes a device or engages in any of the activities described in §807.3(d) of this chapter.

(d) *Device failure* means the failure of a device to perform or function as intended, including any deviations from the device's performance specifications or intended use.

(e) *Serious adverse health consequences* means any significant adverse experience related to a device including device-related events which are life-threatening or which involve permanent or long-term injuries or illnesses.

(f) *Permanently implantable device* means a device that is intended to be placed into a surgically or naturally formed cavity of the human body to continuously assist, restore, or replace the function of an organ system or structure of the human body throughout the useful life of the device. The term does not include any device which is intended and used for temporary purposes or which is intended for explantation.

(g) *Life-supporting or life-sustaining device used outside a device user facility* means a device which is

essential, or yields information that is essential, to the restoration or continuation of a bodily function important to the continuation of human life that is intended for use outside a hospital, nursing home, ambulatory surgical facility, or diagnostic or outpatient treatment facility. Physicians' offices are not device user facilities and, therefore, devices used therein are subject to tracking if they otherwise satisfy the statutory and regulatory criteria.

(h) *Distributor* means any person who furthers the distribution of a device from the original place of manufacture to the person who makes delivery or sale to the ultimate user, i.e., the final or multiple distributor, but who does not repackage or otherwise change the container, wrapper, or labeling of the device or device package.

(i) *Final distributor* means any person who distributes a tracked device intended for use by a single patient over the useful life of the device to the patient. This term includes, but is not limited to, licensed practitioners, retail pharmacies, hospitals, and other types of device user facilities.

(j) *Distributes* means any distribution of a tracked device, including the charitable distribution of a tracked device. This term does not include the distribution of a device under an effective investigational device exemption in accordance with section 520(g) of the act and Part 812 of this chapter or the distribution of a device for teaching, law enforcement, research, or analysis as specified in §801.125 of this chapter.

(k) *Multiple distributor* means any device user facility, rental company, or any other entity that distributes a life-sustaining or life-supporting device intended for use by more than one patient over the useful life of the device.

(l) *Licensed practitioner* means a physician, dentist, or other health care practitioner licensed by the law of the State in which he or she practices to use or order the use of the tracked device.

(m) Any term defined in section 201 of the act shall have the same definition in this part.

§821.4 Imported devices.

For purposes of this part, the importer of a tracked device shall be considered the manufacturer and shall be required to comply with all requirements of this part applicable to manufacturers. Importers must keep all information required under this part in the United States.

Subpart B—Tracking Requirements

§821.20 Devices subject to tracking.

(a) A manufacturer of any device the failure of which would be reasonably likely to have a serious adverse health consequence, that is either a life-sustaining or life-supporting device used outside of a device user facility or a permanently implantable device, or a manufacturer of any other device that FDA, in its discretion, designates for tracking, shall track that device in accordance with this part.

(b) Manufacturers have the responsibility to identify devices that meet the criteria for tracking and to initiate tracking. By way of illustration and to provide guidance, FDA has set out below a list of example devices it regards as subject to tracking under the criteria set forth in this regulation.

(1) Permanently implantable devices.

| 21 CFR | Classification |
|-----------|--|
| 870.3450 | Vascular graft prosthesis of less than 6 millimeters diameter. |
| 870.3460 | Vascular graft prosthesis of 6 millimeters and greater diameter. |
| 870.3545 | Ventricular bypass (assist) device. |
| 870.3610 | Implantable pacemaker pulse generator. |
| 870.3680 | Cardiovascular permanent pacemaker electrode. |
| 870.3800 | Annuloplasty ring. |
| 870.3925 | Replacement heart valve. |
| (No cite) | Automatic implantable cardioverter/defibrillator. |
| 878.3720 | Tracheal prosthesis. |
| 882.58200 | Implanted cerebellar stimulator. |
| 882.5830 | Implanted diaphragmatic/phrenic nerve stimulator. |
| (No cite) | Implantable infusion pumps. |

(2) Life-sustaining or life-supporting devices used outside device user facilities.

| 21 CFR | Classification |
|----------|---|
| 868.2375 | Breathing frequency monitors (apnea monitors) (including ventilatory efforts monitors). |
| 868.5895 | Continuous ventilator. |
| 870.5300 | DC-defibrillator and paddles. |

(c) FDA designates the following devices as subject to tracking. Manufacturers must track these devices in accordance with this part.

| 21 CFR | Classification |
|-----------|---|
| 878.3530 | Silicone inflatable breast prosthesis. |
| 878.3540 | Silicone gel-filled breast prosthesis. |
| 876.3750 | Testicular prosthesis, silicone gel-filled. |
| (No cite) | Silicone gel-filled chin prosthesis. |
| (No Cite) | Silicone gel-filled angel chick reflux valve. |

| 21 CFR | Classification |
|----------------|--|
| 878.5725 | Infusion pumps (Electromechanical only). |

(d) FDA, when responding to premarket notification submissions and approving premarket approval applications, will notify the sponsor that FDA believes the device meets the criteria of section 519(e)(1) of the act and therefore should be tracked. FDA will also, after notifying the sponsor, publish a notice in the **Federal Register** announcing that FDA believes that a new generic type of device is subject to tracking and soliciting comment on FDA's position. If the device is a new generic type of device not already on the example list above, FDA will add it to this list.

§ 821.25 Device tracking system and content requirements: manufacturer requirements.

(a) A manufacturer of a tracked device shall adopt a method of tracking for each such type of device that the manufacturer distributes that enables it to provide FDA with the following information in writing for each tracked device distributed:

(1) Except as required by order under section 518(e) of the act, within 3 working days of a request from FDA, prior to the distribution of a tracked device to a patient, the name, address, and telephone number of the distributor, multiple distributor, or final distributor holding the device for distribution and the location of the device;

(2) Within 10 working days of a request from FDA for life-sustaining or life-supporting devices used outside a device user facility that are intended for use by a single patient over the life of the device and permanent implants that are tracked devices, after distribution to or implantation in a patient:

(i) The lot number, batch number, model number or serial number of the device, or other identifier necessary to provide for effective tracking of the devices;

(ii) The date the device was shipped to the manufacturer;

(iii) The name, address, telephone number, and social security number (if available) of the patient receiving the device;

(iv) The date the device was provided to the patient;

(v) The name, mailing address, and telephone number of the prescribing physician;

(vi) The name, mailing address, and telephone number of the physician regularly following the patient if

different than the prescribing physician; and

(vii) If applicable, the date the device was explanted and the name, mailing address, and telephone number of the explanting physician; the date of the patient's death; or the date the device was returned to the manufacturer, permanently retired from use, or otherwise permanently disposed of.

(3) Except as required by order under section 518(e), within 10 working days of a request from FDA for life-sustaining or life-supporting devices used outside device user facilities that are intended for use by more than one patient and that are tracked devices, after the distribution of the device to the multiple distributor:

(i) The lot model number, batch number, serial number of the device, or other identifier necessary to provide for effective tracking of the device;

(ii) The date the device was shipped by the manufacturer;

(iii) The name, address, and telephone number of the multiple distributor;

(iv) The name, address, telephone number, and social security number (if available) of the patient using the device;

(v) The location of the device;

(vi) The date the device was provided for use by the patient;

(vii) The name, address, and telephone number of the prescribing physician; and

(viii) If and when applicable, the date the device was returned to the manufacturer, permanently retired from use, or otherwise permanently disposed of.

(b) A manufacturer of a tracked device shall keep current records in accordance with its standard operating procedure of the information identified in paragraphs (a)(1), (a)(2) and (a)(3)(i) through (a)(3)(iv) of this section on each tracked device released for distribution for as long as such device is in use or in distribution for use.

(c) A manufacturer of a tracked device shall establish a written standard operating procedure for the collection, maintenance, and auditing of the data specified in paragraphs (a) and (b) of this section. A manufacturer shall make this standard operating procedure available to FDA upon request. A manufacturer shall incorporate the following into the standard operating procedure:

(1) Data collection and recording procedures, which shall include a procedure for recording when data which is required under this part is missing and could not be collected and the reason why such required data is missing and could not be collected;

(2) A method for recording all modifications or changes to the tracking system or to the data collected and maintained under the tracking system, reasons for any modification or change, and dates of any modification or change. Modification and changes included under this requirement include modifications to the data (including termination of tracking), the data format, the recording system, and the file maintenance procedures system; and

(3) A quality assurance program that includes an audit procedure to be run for each device product subject to tracking, at not less than 6-month intervals for the first 3 years of distribution and at least once a year thereafter. This audit procedure shall provide for statistically relevant sampling of the data collected to ensure the accuracy of data and performance testing of the functioning of the tracking system.

(d) When a manufacturer becomes aware that a distributor, final distributor, or multiple distributor has not collected, maintained, or furnished any record or information required by this part, the manufacturer shall notify the FDA district office responsible for the area in which the distributor, final distributor, or multiple distributor is located of the failure of such persons to comply with the requirements of this part. Manufacturers shall have taken reasonable steps to obtain compliance by the distributor, multiple distributor, or final distributor in question before notifying FDA.

Subpart C—Additional Requirements and Responsibilities

§ 821.30 Tracking obligations of persons other than device manufacturers: distributor requirements.

(a) A distributor, final distributor, or multiple distributor of any tracked device shall, upon purchasing or otherwise acquiring any interest in such a device, promptly provide the manufacturer tracking the device with the following information:

(1) The name and address of the distributor, final distributor or multiple distributor;

(2) The lot number, batch number, model number, or serial number of the device, or other identifier used by the manufacturer to track the device;

(3) The date the device was received;

(4) The person from whom the device was received;

(5) If and when applicable, the date the device was explanted, the date of the patient's death, or the date the device was returned to the distributor,

permanently retired from use, or otherwise permanently disposed of.

(b) A final distributor, upon sale or other distribution of a tracked device for use in or by the patient, shall promptly provide the manufacturer tracking the device with the following information:

(1) The name and address of the final distributor;

(2) The lot number, batch number, model number, or serial number of the device, or other identifier used by the manufacturer to track the device;

(3) The name, address, telephone number, and social security number (if available) of the patient receiving the device;

(4) The date the device was provided to the patient or for use in the patient;

(5) The name, mailing address, and telephone number of the prescribing physician;

(6) The name, mailing address, and telephone number of the physician regularly following the patient if different than the prescribing physician; and

(7) When applicable, the date the device was explanted and the name, mailing address, and telephone number of the explanting physician, the date of the patient's death, or the date the device was returned to the manufacturer, permanently retired from use, or otherwise permanently disposed of.

(c)(1) A multiple distributor shall keep written records of the following each time such device is distributed for use by a patient:

(i) The lot number, batch number, or model number, or serial number of the device, or other identifier used by the manufacturer to track the device;

(ii) The name, address, telephone number, and social security number (if available) of the patient using the device;

(iii) The location of the device;

(iv) The date the device was provided for use by the patient;

(v) The name, address, and telephone number of the prescribing physician;

(vi) The name, address, and telephone number of the physician regularly following the patient if different than the prescribing physician; and

(vii) When applicable, the date the device was permanently retired from use or otherwise permanently disposed of.

(2) Except as required by order under section 518(e), any person who is a multiple distributor subject to the recordkeeping requirement of paragraph (c)(1) of this section shall, within 5 working days of a request from the manufacturer or within 10 working days of a request from FDA for the information identified in paragraph (c)(1) of this section, provide such information to the manufacturer or FDA.

(3) A distributor, final distributor, or multiple distributor shall make any records required to be kept under this part available to the manufacturer of the tracked device for audit upon written request by an authorized representative of the manufacturer.

Subpart D—Records and Inspections

§ 821.50 Availability.

(a) Manufacturers, distributors, multiple distributors, and final distributors shall, upon the presentation by an FDA representative of official credentials and the issuance of Form FD 482 at the initiation of an inspection of an establishment or person under section 704 of the act, make each record and all information required to be collected and maintained under this part and all records and information related to the events and persons identified in such records available to FDA personnel.

(b) Records and information referenced in paragraph (a) of this section shall be available to FDA personnel for purposes of reviewing, copying, or any other use related to the enforcement of the act and this part.

Records required to be kept by this part shall be kept within the United States.

§ 821.55 Confidentiality.

(a) Records and other information submitted to FDA under this part shall be protected from public disclosure to the extent permitted under part 20 of this chapter, and in accordance with § 20.63 of this chapter, information contained in such records that would identify patient or research subjects shall not be available for public disclosure except as provided in those parts.

(b) Patient names or other identifiers may be disclosed to a manufacturer or other person subject to this part or to a physician when the health or safety of the patient requires that such persons have access to the information. Such notification will be pursuant to agreement that the record or information will not be further disclosed except as the health aspects of the patient requires. Such notification does not constitute public disclosure and will not trigger the availability of the same information to the public generally.

§ 821.60 Retention of records.

Persons required to maintain records under this part shall maintain such records for the useful life of each tracked device they manufacture or distribute. The useful life of a device is the time a device is in use or in distribution for use. For example, a record may be retired if the person maintaining the record becomes aware of the fact that the device is no longer in use, has been explanted, returned to the manufacturer, or the patient has died.

Dated: May 28, 1992.

David A. Kessler,

Commissioner of Food and Drugs.

Louis W. Sullivan,

Secretary of Health and Human Services.

[FR Doc. 92-12623 Filed 5-28-92; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 821

[Docket No. 91N-0296]

Medical Devices; Device Tracking

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to establish a device tracking requirement for certain categories of medical devices under the Safe Medical Devices Act of 1990 (the SMDA). FDA first proposed such regulations in the *Federal Register* of March 27, 1992 (57 FR 10702). This action reflects the agency's initial review of certain comments received in response to the March 27, 1992, proposal. FDA is issuing this proposal to provide for orderly implementation of the tracking requirements. Elsewhere in this issue of the *Federal Register* is a document entitled "Medical Devices; Device Tracking; final rule, notification of status under the Safe Medical Devices Act; confirmation of effective date." That document describes how this proposed rule, by operation of the SMDA, will have the status of a final rule.

The promulgation of a device tracking regulation is required by the SMDA, which amended the Federal Food, and Drug, and Cosmetic Act (the act) to require that manufacturers of certain medical devices adopt a method of tracking that follows those devices through the distribution chain and then identifies and tracks the patients who receive them. The SMDA requires tracking by manufacturers of life-supporting or life-sustaining devices that are used outside a device user facility and of permanently implantable devices, if the failure of these devices would be reasonably likely to have serious adverse health consequences. The SMDA also gives FDA the authority to designate other devices which must be tracked by their manufacturers. The proposed regulation would also apply to devices that FDA designates for tracking. This proposal applies to all devices subject to tracking under the SMDA that are initially introduced into interstate commerce or presented for importation into the United States on or after March 1, 1993.

FDA is also announcing that it is withdrawing the March 1992, proposal. FDA requests comments on this proposed regulation. After closure of the

comment period for this proposed rule and consideration of comments, FDA will, if necessary, take further action.

DATES: Written comments by July 28, 1992. The agency is proposing that any final rule that may issue based on this proposal become effective March 1, 1993. For further information on "Effective Date," see the document published elsewhere in this issue of the *Federal Register* entitled "Medical Devices; Device Tracking; final rule; notification of status under the Safe Medical Devices Act; confirmation of effective date."

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph M. Sheehan, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

SUPPLEMENTARY INFORMATION:

I. Background

The SMDA (Pub. L. 101-629), which became law on November 28, 1990, added section 519(e) (21 U.S.C. 360i(e)) to the act as codified at 21 U.S.C. 321-393. Section 519(e) of the act requires that manufacturers track certain devices from the manufacturer through the distribution chain to the patient using the device. Under section 519(e) of the act, manufacturers must track life-supporting or life-sustaining devices that are used outside a device user facility and permanently implantable devices, if the failure of these devices would be reasonably likely to have serious adverse health consequences. Section 519(e) of the act also gives FDA the authority to designate other devices which must be tracked by their manufacturers.

Under section 3(a)(A)(ii) of the SMDA, FDA was to have issued proposed regulations implementing section 519(e) of the act within 9 months of enactment of the SMDA (by August 28, 1991). Under section 3(c)(2) of the SMDA, FDA is to issue final regulations not later than 18 months after the date of enactment of the SMDA (by May 28, 1992). However, section 3(c)(2) of the SMDA also provides that, if FDA does not promulgate final tracking regulations by May 28, 1992, that

the Congress finds that there is good cause for the proposed regulations to be considered as the final regulations without response to comment because the implementation of . . . [section 519(e)] of the act [is] essential to protect the health of patients who

use such devices. Consequently, in such event, the proposed regulations issued under paragraph (1) shall become final regulations as of the expiration of such 18 months. There shall be promptly published in the *Federal Register* notice of the new status of the proposed regulations.

(The SMDA, section 3(c)(2).)

On March 27, 1992 (57 FR 10702), FDA published a proposed rule in the *Federal Register* that outlined the recordkeeping and reporting requirements which FDA believed were necessary to ensure that tracking serves its purpose—ensuring that manufacturers can, after devices have been distributed, promptly locate the device and the user of the device if FDA orders a recall or patient notification due to serious adverse health consequences or unreasonable risks of substantial harm to the public health associated with the use of the device. To that end, the March 27, 1992, proposal applied to manufacturers and those persons involved in the distribution of tracked devices, including distributors, pharmacies, hospitals, and doctors.

The period for submitting comments in response to the March 27, 1992, proposal closed on May 26, 1992. By May 15, 1992, the agency had received over 400 comments. Comments have been received from physicians specializing in medical disciplines utilizing devices subject to tracking, large and small device manufacturers, distributors, durable medical equipment suppliers, hospitals, trade associations and attorneys representing business interests, and private citizens. The comments received thus far have raised significant issues, including the effective date of the proposed regulations; the applicability of tracking requirements to imported and exported devices; the prohibition on distributing to noncompliant distributors; alternative methods of tracking; devices subject to tracking; and reporting timeframes and costs. In addition, the agency expects to receive more comments before the close of the comment period on the March 27, 1992, proposal.

Given the statutory deadline, FDA does not have sufficient time to give full and careful consideration and response to all comments and issue final regulations by May 28, 1992, the date upon which proposed tracking regulations are to become final regulations under section 3(c)(2) of the SMDA. Nevertheless, FDA has been reviewing comments on the March 27, 1992, proposal as they are filed. In light of the comments filed and reviewed thus far, FDA has reconsidered aspects of the regulations proposed on March 27, 1992,

and has determined that some revisions of the proposed regulation are needed to ensure effective implementation of the statutory tracking requirements.

Accordingly, FDA is incorporating the revisions that it has determined, based on comments reviewed thus far, are necessary and proposing a revised medical device tracking regulation that supersedes the March 27, 1992, proposal. To the extent still applicable, the basis, purpose, authority discussion, and other explanations in the preamble to that proposal apply to this proposal.

II. Effective Date

In the March 27, 1992 proposal, FDA proposed that the effective date of the regulation would be 30 days after date of the publication of the final rule or May 28, 1992, whichever occurred first. FDA also stated that section 519(e) of the act would go into effect on the date that final regulations go into effect or May 28, 1992, whichever occurs first. Many comments, however, explained that it would be impossible to comply with the rule by May 28, 1992, and requested that the agency extend by at least 6 months the effective date of the regulations. At least one comment pointed out that the SMMA provides only that section 519(e) of the act becomes effective on the effective date of final regulations and that nothing in the SMMA curtailed FDA's ability to provide for an effective date of the regulations after May 28, 1992. Many comments pointed out that numerous actions would have to be taken before May 28, 1992, to comply with all of the requirements of the regulations. Several comments noted that, in some cases, manufacturers would have to make changes to a tracked device or its manufacturing, packaging, or labeling in order to comply. The comments pointed out that some of these changes could require the submission of premarket notifications or premarket approval supplements for FDA clearance of the changes. Until a company received a response from FDA (which could take up to 90 days for a premarket notification and 180 days for an approval of a PMA supplement under the statutory timeframes), a company could not distribute the devices with the changes necessary to track its device. Comments noted that even if FDA clearance were not needed for a change, many necessary changes in manufacturing, packaging, or labeling could not be fully implemented by May 28, 1992.

Comments also noted that manufacturers needed more time to coordinate their tracking programs with the distributors, multiple distributors,

and final distributors of their products and to educate these persons about the requirements and importance of tracking. In addition, comments explained that manufacturers could not, by May 28, 1992, draft the necessary standard operating procedures (SOP's), obtain and install the necessary computer systems, change pricing strategies, change distribution policies, change contractual agreements with distributors and hospitals, and hire and train employees to implement tracking systems.

According to the comments, manufacturers' inability to take all the steps by May 28, 1992, would disrupt the supply of devices critical to health. For example, the requirement that devices have a unique identifier for tracking purposes could result in devices being removed from inventory for repacking before shipment, while other devices might be taken off the market until their manufacturers had implemented their tracking systems.

FDA agrees with many of these comments. While FDA believes that tracking critical devices to ensure that notifications and recalls of such devices are promptly and effectively carried out is a significant public health tool, FDA also believes it is not in the public's interest for systems as complex and far-reaching as medical device tracking to be implemented in a piecemeal, unorganized, or careless manner. In order for tracking systems to perform as envisioned by Congress and FDA, FDA believes that affected parties do need more time so that they can implement tracking systems thoughtfully and carefully, taking into account factors related to the device itself, the distribution systems, and the users of the device.

Section 3(c) of the SMMA provides that, if FDA has not issued a final rule by May 28, 1992, the proposed rule will become the final rule on that date. However, FDA, upon reconsideration, agrees that the SMMA does not preclude FDA from providing for a delayed effective date for the regulations. Indeed, delaying the effective dates of final rules is a common practice in order to allow the regulated community adequate compliance time. As noted above, FDA has reconsidered the effective date in the March 27, 1992, proposal and has determined that it is appropriate, under the circumstances present here, to extend the effective date of the final rule until March 1, 1993. Under section 3(b)(3) of the SMMA, therefore, section 519(e) of the act will be effective on March 1, 1993.

Thus, on and after March 1, 1993, manufacturers and importers of devices subject to tracking will be required to have in place the written SOP's required under proposed § 821.25(c), and these SOP's should be made available to all who are responsible for implementing and maintaining the tracking system. FDA will regard the failure to have the required written SOP in place as a violation of sections 301 and 502 of the act.

Starting March 1, 1993, FDA also expects manufacturers and importers to make a good faith effort to comply with the remaining provisions of the proposed regulation. FDA, however, recognizes that for the first 6 to 12 months of tracking, manufacturers, distributors, multiple distributors, and final distributors will be fine-tuning their procedures for tracking based on their initial experiences. Thus, to determine "good faith," FDA will look at whether efforts to comply are documented after the first two audits and whether persons subject to tracking are taking immediate steps to correct any shortcomings identified by the first two audits. While FDA will not specifically schedule inspections for the purpose of reviewing a tracking system during the early stages of implementation, FDA will review tracking systems and records during regularly scheduled current good manufacturing practice (CGMP) inspections.

In the preamble to the proposed rule, the agency recognized there might be facets of device distribution, tracking, and patient followup whose impact upon the benefits, effectiveness, and cost of device tracking systems were not fully being taken into account in all respects by the agency (57 FR at 10702 at 10712 and 10713). Accordingly, FDA solicited comments in nine areas pertaining to: the number and kind of tracking systems presently in use by industry; how, to what degree, and at what cost existing tracking systems would have to be modified by manufacturers and distributors to accommodate the proposed device tracking requirements; and what business practices would be benefitted by the proposed tracking system requirements besides increased capabilities to track and recall devices and notify patients using certain devices.

FDA remains committed to the notice and comment process as the appropriate mechanism for informed decisionmaking on device tracking. The agency intends to review and consider all comments received in response to the proposed rule published on March 27, 1992 as well

as to review and consider all comments submitted by July 28, 1992, on the revisions to this proposed tracking rule.

A. Effective Date

As discussed above, FDA is revising § 821.1(c) of the proposed regulation, deleting the previous reference to May 28, 1992 as the latest date by which the manufacturer (repacker, initial foreign importer, and others) of a tracked device would be required to implement a method of tracking. Revised § 821.1(c) of the proposed rule requires the implementation of a method of tracking devices that are subject to section 519(e) of the act and that are manufactured, repacked, or presented for importation into the United States on or after March 1, 1993. Tracking will be required for finished devices initially introduced or delivered for introduction into interstate commerce and devices offered for importation on or after March 1, 1993.

B. Illustrative List

The majority of comments objected to the inclusion of one or more devices on the illustrative list of devices subject to the tracking requirements (§ 821.20(b)). As a result, FDA has reviewed the legislative history of the SMDA, the statutory language, the proposed definitions of the statutory terms, the specific comments already received about the purpose and contents of the list, and the intended uses, methods of operation, and safety records of the devices enumerated on the previous illustrative list. In so doing, FDA has been able to refine its understanding of the category of devices intended by Congress to be subject to tracking.

Preliminarily, FDA reiterates that the "[m]anufacturers have the responsibility to identify devices that meet the criteria for tracking and to initiate tracking." (proposed § 821.20(b)). The illustrative list, therefore, consists of those devices that, based upon information currently held by FDA with regard to approved intended uses, methods of operation, and extant agency safety records, FDA regards as subject to tracking under the criteria set forth in this regulation. Furthermore, if the intended uses or the methods of operation were to change, either because of changes in the use or manufacture or changes in knowledge about a device, the list might require further revision, either to include or exclude other devices. FDA solicits such comments for further evaluation.

The statutory algorithm for mandatory tracking requires the manufacturer to determine whether the device is either "permanently implantable" or "a life-sustaining or life-supporting device used outside a device user facility." (section

519(e)(1) of the act). If it is, the manufacturer must determine if the failure of the device would be "reasonably likely to have adverse health consequences." (section 519(e)(i) of the act). After reviewing the legislative history, FDA concluded that "permanently implantable" did not include all devices, which remain incorporated within the body, which would include all nonabsorbable suture material and similar devices. Rather, FDA concluded that the device must not only remain in the body, but must "continuously assist, restore, or replace the function of an organ system or structure of the human body throughout the useful life of the device." (proposed § 821.3(f)). Thus, the category of devices which are permanently implantable excludes those devices which, although they may remain permanently in the body, cease to perform the function for which they were designed after a known time period. The definition thus excludes nonabsorbable suture material. The category is designed to permit recalls, patient advisories, and/or explantation, of devices based upon new information of device failure related to device design or performance. Thus, FDA concluded that a device that serves only a temporary function, or ceases to perform the function for which it was designed, although it may remain in the body, was not intended by Congress to be tracked as a permanently implantable device.

Many comments brought to FDA's attention that many devices on the initial illustrative list for "permanently implanted" devices, although left in the body, only functioned temporarily when understood in light of their intended use and known method of function. To the extent that FDA has not completed the task of verification of such data submissions or to the extent that other parties may wish to submit further such information about devices currently on the illustrative list or devices that should be placed on such a list, FDA anticipates further revision.

Based upon review of the earlier published list of permanently implantable devices, FDA concludes that the following devices do not fall within the definition as the device does not continue to assist, restore or replace the function of an organ system or structure of the human body:

Vena Cava Clip
Cardiovascular Intravascular Filter
Intracardiac patch or pledget made of polypropylene, polyethylene terephthalate, polytetrafluoroethylene
Aneurysm clip
Artificial embolization device

Intravascular occluding catheter
Spinal interlaminar fixation orthosis
Spinal intervertebral body fixation orthosis

As FDA understands it, the vena cava clip and the cardiovascular intravascular filter serve to narrow the lumen of the inferior vena cava to preclude the passage of large emboli from the lower part of the body through the heart and into the lungs. The devices do not, generally, totally occlude blood flow, either because a smaller intraluminal passage remains or collateral circulation may develop around the device. However, the remaining blood flow is directed through smaller conduits that preclude passage of large emboli. These smaller conduits become permanent regardless of the permanence of the device. Device failure, based upon the newly identified design or performance questions, with resultant breakage and/or migration, is not likely to result in recurrence of susceptibility to large pulmonary emboli.

Aneurysm clips, intravascular occluding catheters, and artificial embolization devices are intended to restore normal circulatory function to a diseased, damaged, altered, or dysfunctional blood vessel by occluding the vessel at the appropriate point. After occlusion occurs, clot formation and organization and neointimal development replace the function of the device. The device remains in place only because removal is difficult or dangerous.

Pledgets serve to reinforce suture material placed through myocardial tissue. Much like suture material itself, the function of the pledget is replaced by natural processes of scar formation, neointimal and endothelial cell proliferation, and other processes of healing. These devices do not continue to function after that healing process is completed. These devices, therefore, do not "continuously * * * restore * * * the function of an organ system of the body throughout the useful life of the device," and FDA does not believe they are subject to tracking.

The spinal interlaminar and intervertebral body fixation devices are designed to provide an alternative to bony or ligamentous support after surgery to correct, repair, or treat various bony diseases or deformities of the spine. After the completion of healing by bone growth, spinal fusion, or other process, the device no longer serves as the primary support. Their removal at this stage is elective, but may be deferred based upon such considerations as the risk of further surgery. FDA here reiterates that we are

continuing to seek information regarding the potential adverse health consequences of these devices. FDA specifically solicits comments on whether deleting these devices from the list is appropriate. As noted in the preamble to the March 27, 1992 proposal, procedures exist for adding devices onto the list.

FDA notes, however, that FDA's current position on the two types of spinal fixation devices identified in the proposal, e.g., Harrington rod (21 CFR 888.3050) and Dwyer Wire (21 CFR 888.3060) does not reflect FDA's position on other devices that may be promoted and used for spinal fixation. Other devices have not yet been approved for spinal fixation or otherwise cleared for marketing as spinal fixation devices.

Finally, the agency has also reconsidered, based upon comments, the inclusion of the central nervous system fluid shunt ("CNS shunt") and components. Several comments noted that the Senate report, which referred to the "crucial concept" of "serious, adverse health consequences," stated that "injuries attributable to a device that are not significant in nature and are treatable and reversible by standard medical techniques, proximate in time to the injury, are not included within the term's definition." (See S. Rept. 513, 101st Cong., 2d sess. 19 (1990).) The comments noted that CNS shunt failure has always been a fairly common event and that there is no existing design that is free from such failure. Furthermore, the comments noted that shunt revision is a common and standard medical technique. Finally, the comments noted that shunt failure results in the slow reaccumulation of CNS fluid, at gradually-increasing pressure, during which time period symptoms of the original disease, which precipitated the primary CNS shunt insertion, slowly recur. FDA agrees. Complete CNS shunt failure is a common expected experience and existing medical standards and techniques have been developed so that CNS shunt revision is available on a timely and emergency basis to patients who have CNS shunts in place. Moreover, when such timely shunt revision is performed, reversal of the symptom complex occurs. FDA therefore concludes that CNS shunts are excluded from tracking based upon Congressional understanding of the terms, "serious adverse health consequences," which precludes application of tracking to devices for which timely, known, and well-recognized medical intervention would result in reversal of any medical

complications due to expected device failure to function.

FDA notes, for the record and to assist manufacturers in identifying devices for which tracking is required, that timely intervention is unlikely to result in reversing complications for device failure when the device performs mandatory ventilatory, airway, or circulatory functions, which must be restored almost instantaneously if failure occurs.

Upon review, FDA concludes that the following device does not meet the statutory requirement that device failure "would be reasonably likely to have serious adverse health consequences": Central nervous system fluid shunt and components.

FDA also reviewed comments with regard to the second prong of mandatory tracking "Life-sustaining or Life-supporting devices used outside device user facilities." Several comments noted that devices included on the illustrative list were either (1) not intended for use to support or sustain life or (2) device failures were treatable and reversible by standard medical techniques, proximate in time to the injury. With regard to the second category of devices subject to tracking, FDA notes that these devices are not intended to be used along with attendant physician supervision and may be used in the home. FDA must consider, therefore, not whether the remedial techniques are standard medical techniques, but whether such techniques would be reasonably known and available to the user of the device.

FDA agrees with the comments that suggested and provided evidence that the following devices were not life-sustaining and life-supporting devices, within the intent of Congress, to be tracked:

Noncontinuous ventilator
Portable liquid oxygen unit
Portable oxygen generator, including oxygen concentrator

With respect to the ventilatory and oxygen devices, by their nature, these devices are not essential to sustaining ventilation or respiration. Patients who require ventilatory support to sustain or support life could not survive without continuous ventilation. Furthermore, while oxygen supplementation is frequently an adjunct to satisfactory home management of patients with respiratory disease, FDA believes that standard medical practice precludes the use of oxygen supplementation outside a user facility for patients who could not tolerate periods of room air breathing long enough to identify and obtain further supplemental oxygenation even

if remediation required transport to a hospital facility.

FDA agrees with comments that suggested or provided evidence that the failure of the following devices would not be reasonably likely to have serious adverse health consequences because timely, simple, and well-known lay intervention would preclude irreversible injury:

Pressure regulator, including mechanical oxygen regulators
Tracheostomy tube and tube cuff
Portable liquid oxygen unit
Portable oxygen generator, including oxygen concentrator
Peritoneal dialysis system and accessories

With the exception of peritoneal dialysis systems and accessories, all of these devices are used for respiratory support for patients with impaired but functioning respiratory systems. FDA believes that both the nature of the devices and the nature of their use would preclude use of the devices outside a user facility without significant education and/or experience in the care and management of the devices. Furthermore, FDA believes that existing medical standards preclude the use of the device outside a user facility in circumstances where device failure would result in imminent death or permanent injury. Thus, FDA concludes that failure of these devices is not reasonably likely to have serious adverse health consequences. FDA would be receptive, however, to receipt of further information about the intended or actual use of such products that might prompt a reconsideration of this judgment.

FDA believes that failure of peritoneal dialysis systems would be easily recognized and remediated by the user in a sufficiently timely fashion to preclude serious adverse health consequences.

Electromechanical infusion pumps remain on the list, as devices not meeting the mandatory statutory criteria but as designated for tracking because their failure nonetheless presents the potential for serious adverse health consequences. Implantable infusion pumps remain on the list as meeting the definition of permanently implantable devices, the failure of which would be reasonably likely to have serious adverse health consequences. FDA has received reports that automated infusion pumps, either implantable or electromechanical, may fail either by ceasing function completely or by increasing the rate at which medication of fluid is delivered. While cessation of

administration or medication or fluid may be promptly recognized and remediated by the user, FDA has serious concerns as to whether the same is true for device failure that manifests by over-infusion or overdosage. Based upon the existing record of reported adverse events, not all of which have been life-threatening, and the belief that these automated products may not necessarily exhibit design or performance failures until long after marketing, FDA believes that these devices must be tracked to permit recalls and/or repair until a better safety record can be established.

As stated in the preamble to the March 27, 1992 proposal, as more information comes to its attention, FDA may add to or remove devices from the list in accordance with the procedures set forth in that preamble.

C. Exemptions/Variances; Alternative Systems

Many comments raised questions about the applicability of or need for certain tracking requirements of the proposed regulation with respect to specific devices. For example, some comments explained that there is no need for each device unit to a unique identifier to conduct an effective recall or notification of certain types of devices. Others stated that some devices may include disposable parts or accessories that do not need to be tracked all the way to the patient.

FDA agrees that it may be possible to effectively track certain devices without all of the information required under proposed § 821.25(a)(2) or § 821.25(a)(3). However, after reviewing the comments that raised this issue, FDA believes that whether this is true will depend on the particular device in question, its intended uses, and how and where it is distributed. FDA has concluded that such device-specific determinations are best handled on an individual basis. Thus, FDA is providing for exemptions or variances from proposed §§ 821.25 and 821.30 in certain cases and has included in the proposed rule a new proposed § 821.2 that sets out a procedure for petitioning FDA for such an exemption or variance from tracking requirements. Petitions for exemptions or variance must be submitted in accordance with § 10.30 (21 CFR 10.30) of FDA's administrative practice and procedure regulations. However, FDA will respond to such petitions in 90 days not the 180 days provided in § 10.30. The Director of the Office of Compliance and Surveillance, Center for Devices and Radiological Health will issue these responses. FDA notes that exemptions and variances from the requirements of proposed §§ 821.25 and 821.30 will not

be granted lightly. Testing of the proposed alternative to demonstrate its viability will generally be necessary. Any person requesting an exemption will be required to demonstrate that the system that person proposes to meet the purposes of section 519(e) of the act and these proposed regulations will, in fact, ensure prompt and effective notifications and recalls under sections 518(a) and 518(e) of the act.

FDA recognizes the need to accommodate manufacturers who will be petitioning for exemptions or variances before the March 1, 1993 effective date. Thus, for those petitions received under proposed § 821.3 before November 1, 1992, FDA will extend the effective date of this part for the device in question, if FDA determines it needs more time to review the petition and issue its response. In this case, FDA, by February 1, 1993, will either approve or disapprove the petition, or extend the effective date to complete its review. Any extension that FDA grants to the effective date will be based upon the additional time FDA needs to complete its review of the petition.

D. Use of Social Security Number

At least one comment discussed in detail a proposal to use patients' social security numbers and information from Government data bases (from the Internal Revenue Service) as a primary method of tracking patients. The comment stated that this would be the most efficient and cost-effective method of tracking. The comment noted, however, that there were limitations to the proposal, most notably the fact that legislation is necessary to implement it because the permitted uses of such data bases are narrowly restricted by statute.

Under the Paperwork Reduction Act and implementing regulations, FDA has an obligation to inquire whether information required to be collected by manufacturers under a regulation is available from another source within the Federal Government.

FDA has not had time to fully evaluate this proposal. FDA will continue to explore the proposal because the agency, too, is interested in exploring the most efficient and cost effective methods for device tracking.

FDA agrees that it is desirable for Federal agencies to use other available Government data bases but disagrees with these comments' views that IRS's data base will meet FDA's need for device tracking. First, the device tracking regulation requires the collection of more than just patient name and current address. To ensure the effectiveness of recalls and health professional and patient notifications

under sections 518(a) and 581(e) of the act, this tracking regulation also requires that manufacturers keep current distribution information and health professional information. FDA is not aware of any Government agency that keeps this information, and no comment has suggested that any Government agency currently collects this information.

With respect to IRS tax return information, the comment itself acknowledges that such information cannot be made available for use in tracking medical devices until section 6103 of the Internal Revenue Code (26 U.S.C. 6103) is amended to permit IRS to disclose this information. Under section 6103 of the Internal Revenue Code, IRS is prohibited from disclosing, even to another Government agency, any tax return information, including taxpayer identity, unless section 6103 specifically permits the disclosure. Section 6103 of the Internal Revenue Code contains no provision that would permit IRS to disclose taxpayer information to FDA (to any other person or agency) for purposes of locating patients with tracked devices.

The comment also submitted information concerning letter forwarding services provided by IRS. With respect to letter forwarding, FDA notes that manufacturers could use this service to supplement their efforts to keep in touch with patients or find patients lost to followup, but notes that the information in the comment states that it generally takes at least 90 days for IRS to process letter forwarding requests. FDA will work with the IRS to explore whether this time period could be shortened. As for relying on the existence of the IRS letter forwarding service to conduct notifications and recalls under sections 518(a) or 518(e) of the act (the purpose of tracking), a tracking system that relies on letter forwarding to conduct a recall or notification would not be effective because all the information necessary for effective recall or health professional and patient notification would not be available, and the information would not be available in a form that would permit effective recalls and health professional and patient notifications in accordance with the requirements of section 518(a) and 518(e) of the act.

Because of the agency's continuing interest in the subject of using existing data bases in device tracking, FDA invites further comments on this issue, and particularly on the issues discussed above.

E. Unique Identifiers

Several comments questioned the need for a unique identifier for each device subject to tracking. These comments generally pointed out that this requirement is neither necessary nor feasible in many cases. The comments further stated that, for many devices, problems would arise only by lot and, therefore, identification and tracking by lot number is sufficient. The comments also stated that the design of some devices would not allow for unique identifiers to be affixed to the device or the labeling.

FDA agrees that unique identification is not necessary in all cases. Therefore, FDA has revised proposed § 821.25 to allow for identification by lot number, batch number, model number, serial number, or any other identifier that would provide for an effective tracking system. FDA cautions, however, that the identification method should be tailored to the device and any recall or notification may be conducted in accordance with the size and scope of the identification system, e.g., by lot.

F. Premarket Clearance

Many comments stated that there may be a need to submit applications for premarket clearance under section 510(k) or 515 of the act cleared before implementing certain changes required to implement a tracking system. Generally these comments referred to the need to establish unique identifiers for certain devices. The comments stated that changes may be required in the device itself to provide for an identifier and such changes may be significant enough to require 510(k) or PMA clearance. The comments further pointed out that clearance could not be obtained in time to implement the changes before the May 28, 1992, effective date.

The problems addressed by these comments have been alleviated to a great extent by the delayed effective date, the changes in the requirements to provide a unique identifier, of each unit of device and the provisions for exemptions and variances. FDA believes that premarket clearance or approval generally should only be necessary for those changes that require physical alteration of the device that could significantly affect its safety or effectiveness as described in § 807.81(a)(3). Premarket clearance or approval is not required for changes in labeling to implement tracking, while changes in the sterilization process or changes requiring process validation will have to be accomplished in accordance with CGMP regulations (21

CFR Part 820), but do not need clearance or approval. Finally, FDA will provide for expedited review within 90 days of any 510(k)'s or PMA supplements that are required to comply with this regulation if the submission is made by November 1, 1992. These 510(k)'s should be marked clearly "Tracking 510(k)'s or PMA's."

G. Exported Devices

Several comments asked for clarification on whether the proposed regulation applied to exported devices, noting that there would be difficulties in applying the tracking requirements to exported devices. These comments stated that it would be difficult or impossible to track exported devices and tracking requirements may be contrary to patient confidentiality statutes in some countries.

The proposed rule does not specifically address whether section 519(e) of the act applies to exported devices. FDA, however, agrees with the comments. FDA believes that tracking should not be required for devices after export from the United States. Devices must be tracked only until they leave the United States. Devices may also be exported without tracking if they are shipped in compliance with section 801(e)(1) of the act (21 U.S.C. 381(e)(1)) which governs the exportation of devices and states that a device intended for export shall be deemed not to be adulterated or misbranded under the act provided the device: (1) Meets the foreign purchaser's specification; (2) does not violate the laws of the foreign country to which the device is being imported; (3) is labeled as intended for export; and (4) is not sold or offered for sale in domestic commerce. Devices that are subject to section 519(e) of the act and are not tracked would be misbranded when introduced into interstate commerce unless they comply with the four requirements set out in section 801(e)(1). FDA emphasizes that it will not permit as an alternative method of disposition the export of devices subject to the tracking provisions of section 519(e) of the act that are offered for sale in the United States and that are seized because the manufacturer has not implemented a tracking system to track the devices. Such misbranded devices would not meet the requirement of section 801(e)(1)(D) of the act because they have been distributed in the United States. FDA advises that manufacturers that do not intend to track devices that are intended for export should label those devices "for export only" prior to any shipment from the manufacturing facility.

H. Prohibited Distribution

Proposed §§ 821.1(d) and 821.25(d) of the tracking rule prohibit shipment of a device to a distributor, final distributor, or multiple distributor when the manufacturer knows, should know, or becomes aware that such a person has not collected, maintained, or furnished required tracking records and information. Many comments objected to these provisions stating that they would unfairly burden manufacturers with enforcing distributor compliance with tracking requirements and responsibilities set forth for distributors by the proposed rule and would unfairly stop distribution of tracked devices to patients located in geographic areas serviced by a single distributor, doctor, hospital, or health care facility that fails to comply with distributor tracking requirements.

FDA agrees in part with the comments. Accordingly, in the proposed rule FDA is deleting § 821.1(d) of the proposed regulations. FDA is also revising § 821.25(d) of the March 27, 1992, proposed rule to remove the regulation's reference to manufacturer's obligation to cease distributing a tracked device to a noncompliant distributor when the manufacturer learns that a distributor, final distributor or multiple distributor has not complied with the tracking requirements to collect, maintain, or furnish required records or information. In accordance with the statute, the primary burden for ensuring that their tracking system works rests upon the manufacturer, who has a duty to encourage compliance with the requirements by distributors, e.g., through contractual agreements. Manufacturers thus must have taken all reasonable steps within their power to enforce compliance by distributors before notifying FDA. Proposed section 821.25(d) still requires manufacturers to notify the agency when a distributor, final distributor, or multiple distributor has not complied with the tracking requirements to collect, maintain, or furnish required records or information. When notifying FDA, the manufacturer should also provide a full list of all steps the manufacturer has taken to obtain compliance, as well as a fact-based assessment of the effect on supply of the device that will occur if the manufacturer ceases distribution to the person in question. FDA will then take any action necessary against that person.

I. Timeframes for Reporting

Several comments stated that the requirement that the information be

made available to FDA within 3 days of a request is infeasible and unnecessary. These comments stated that it would be impossible to gather the information in that timeframe and that it would not be needed so quickly.

FDA agrees in part with these comments. The purpose of the tracking regulation is to ensure that a manufacturer can, if ordered to do so by FDA, comply with sections 518(a) (health professional and patient notification) and 518(e) (recall) of the act in a prompt and complete manner. Under section 518(e) of the act (also added by the SMDA), if FDA determines that there is a reasonable probability that a device would cause serious adverse health consequences or death, FDA can initiate a mandatory recall by ordering appropriate persons to immediately cease distributing a device and to notify all health professionals and user facilities of the order and instruct them to cease use of the device. Under section 518(e) of the act, recall and notification to patients, however, will take place only after an opportunity for a hearing which is to occur within 10 days of the initial cease distribution and use order. Under section 518(a) of the act, FDA can order the notification of health professionals and patients if FDA determines: (1) That a device presents a substantial risk of harm to the public health; (2) that notification is necessary to eliminate the risk; and (3) that no more practicable means exist under the act to eliminate the risk. Such notification orders issue only after FDA has notified the relevant persons and given them the opportunity to consult with FDA (generally about 10 days).

FDA has thus revised the regulation (proposed § 821.25) to reflect these statutory timeframes. Proposed § 821.25 now provides for manufacturers to provide distributor information within 3 days and patient information within 10 working days. In addition, the proposed regulation has been revised (proposed § 821.30) to require multiple distributors to provide information to manufacturers within 5 working days of a request and to FDA within 10 working days.

FDA believes that these changes will allow for an effective tracking system, while still ensuring immediate response to a cease distribution and use order under section 518(e) of the act. FDA notes, however, that an order under section 518(e) of the act may require notification to distributors and users to begin in less than 3 days and that the recipient of a cease distribution and use order must comply with the timeframes in that order. The proposed regulation has been revised to reflect this fact.

J. Audit

Several comments questioned the extent of the audit provisions. The comments generally objected to what they perceived as a need to contact each patient every 6 months. The comments stated that this was unnecessarily burdensome and intrusive. Some comments also stated that distributors would not make their records available to manufacturers for audit.

FDA notes that the audit requirement is not intended to keep the tracking data current. Rather, audits are to make sure that the tracking system implemented by a manufacturer works (i.e., generates current data). Each SOP should thus contain a sampling plan to audit the function of the tracking system from the manufacturer through the distribution chain to the end user. The extent of an audit depends on the type and adequacy of the system. Thus, it may not be necessary to contact every kind of distributor and patient every 6 months. For maintenance purposes, patients should be contacted as needed to ensure that the information in the system is current. It may only be necessary to contract a random statistically valid sampling of patients to assure that the system is working. Moreover, FDA notes that it may not be necessary to conduct audits every 6 months into perpetuity once the system is established. Therefore, FDA is revising the regulation to require that audits be conducted at least every 6 months for the first 3 years after distribution of a tracked device begins and at least annually in subsequent years. FDA has also added new § 821.30(d) to clearly require all distributors to make their tracking records available to affected manufacturers for audit.

K. Importers

One comment questioned whether foreign manufacturers must comply with the tracking requirements. The comment suggested that the rule should be revised to clarify foreign manufacturers must comply and appoint U.S. agents responsible for tracking. The comment points out that FDA has proposed a similar system in another regulation (56 FR 60024, November 26, 1991) for reporting deaths and serious injuries related to medical devices.

It is FDA's intent that imported devices be tracked by the initial importer who is required to register under section 510(k) of the act. FDA has proposed new § 821.4 to make this clear. FDA notes that the importer may then be a designated agent for purposes of the medical device reporting regulation.

L. Records

FDA has added a new requirement to proposed § 821.50(b) that records must be maintained within the United States.

M. Economic Impact

One comment questioned in detail FDA's economic analysis of the proposed rule and claimed that FDA had greatly underestimated the costs of the proposed rule. The comment said further that FDA needed to undertake more economic analysis to comply with Executive Order 12291 in that the comment estimates that the annual costs exceed \$100 million, placing it in the category of a major rule under the Executive Order that requires further economic analysis.

If necessary, FDA will respond in detail to this comment at a later date. FDA believes that the annual costs of the proposed rule do not exceed \$100 million. Furthermore, FDA notes that the revisions made in this proposed rule substantially reduce the costs of the rule.

III. Request for Comments

Interested persons may, on or before July 28, 1992, submit to the Docket Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 821

Device tracking, Medical devices, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, FDA hereby withdraws the proposed rule that published in the *Federal Register* of March 27, 1992 (57 FR 10702). Further, FDA, proposes that 21 CFR Part 821 be added to read as follows:

PART 821—MEDICAL DEVICE TRACKING REQUIREMENTS

Subpart A—General Provisions

- | | |
|-------|---------------------------|
| Sec. | |
| 821.1 | Scope. |
| 821.2 | Exemptions and variances. |
| 821.3 | Definitions. |
| 821.4 | Imported devices. |

Subpart B—Tracking Requirements

- 821.20 Devices subject to tracking.
 821.25 Device tracking system and content requirements: manufacturing requirements.

Subpart C—Additional Requirements and Responsibilities

- 821.30 Tracking obligations of persons other than device manufacturers: distributor requirements.

Subpart D—Records and Inspections

- 821.50 Availability.
 821.55 Confidentiality.
 821.60 Retention of records.

Authority: Sec. 301, 501, 502, 510, 515, 518, 519, 701, and 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331, 351, 352, 360, 360e, 360h, 360i, 371, and 374).

Subpart A—General Provisions**§ 821.1 Scope.**

(a) The regulations in this part implement section 519(e) of the Federal Food, Drug, and Cosmetic Act (the act) which requires the adoption of a method of device tracking by any person who registers under section 510 of the act and is engaged in the manufacture and distribution of devices the failure of which would be reasonably likely to have serious adverse health consequences if the devices are life-sustaining or life-supporting devices used outside of a device user facility or are permanently implantable devices. This part also applies to any other device that the Food and Drug Administration (FDA) designates as requiring a method of tracking to protect the public health. A device subject to this part either by statutory requirement or by FDA designation is referred to herein as a tracked device.

(b) These regulations are intended to ensure that tracked devices can be traced from the device manufacturing facility to the person for whom the device is indicated, that is, the patient. Effective tracking of devices from the manufacturing facility, through the distributor network (including distributors, retailers, rental firms and other commercial enterprises, device user facilities and licensed practitioners) and, ultimately, to any person for whom the device is intended is necessary for the effectiveness of remedies prescribed by the act, such as patient notification (section 518(a) of the act) or device recall (section 518(e) of the act). Although these regulations do not preclude a manufacturer from involving outside organizations in that manufacturer's device tracking effort, the legal responsibility for complying with this part rests with manufacturers who must register under section 510 of the act, and that responsibility cannot

be altered, modified, or in any way abrogated by contracts or other agreements.

(c) Each manufacturer of a tracked device shall implement a method of tracking devices by March 1, 1993.

(d) The primary burden for ensuring that the tracking system works rests upon the manufacturer. A manufacturer or any other person, including a distributor, final distributor, or multiple distributor, who distributes a device subject to tracking who fails to comply with any applicable requirement of section 519(e) of the act or of this part, or any person who causes such failure, misbrands the device within the meaning of section 502(t)(2) of the act and commits a prohibited act within the meaning of sections 301(e) and 301(q)(1)(B) of the act.

(e) Any person subject to this part who permanently discontinues doing business is required to notify FDA at the time the person notifies any Government agency, court, or supplier, and provide FDA with a complete set of its tracking records and information. However, if a person ceases distribution of a tracked device but continues to do other business, that person continues to be responsible for compliance with this part unless another person, affirmatively and in writing, assumes responsibility for continuing the tracking of devices previously distributed under this part. Further, if a person subject to this part goes out of business completely, but other persons acquire the right to manufacture or distribute tracked devices, those other persons are deemed to be responsible for continuing the tracking responsibility of the previous person under this part.

§ 821.2 Exemptions and variances.

(a) A manufacturer, importer, distributor, or other interested person (including a trade association) may seek an exemption or variance from one or more requirements of this part.

(b) A request for an exemption or variance shall be submitted in the form of a petition under § 10.30 of this chapter and shall comply with the requirements set out therein, except that a response shall be issued in 90 days. The Director, Office of Compliance and Surveillance, Center for Devices and Radiological Health (CDRH), shall issue responses to requests under this section. The petition shall also contain the following:

(1) The name of the device and device class and representative labeling showing the intended use(s) of the device;

(2) The reasons that compliance with the tracking requirements of this part is unnecessary;

(3) A complete description of alternative steps that are available, or that the petitioner has already taken, to ensure that an effective tracking system is in place; and

(4) Other information justifying the exemption or variance.

(c) An exemption or variance is not effective until the Director, Office of Compliance and Surveillance, CDRH, approves the request under § 10.30(e)(2)(i) of this chapter.

(d) For petitions received under this section before November 1, 1992, FDA will, by February 1, 1993, approve or disapprove the petition or extend the effective date of this part for the device that is the subject of the petition. Any extension that FDA grants to the effective date will be based upon the additional time FDA needs to complete its review of the petition.

§ 821.3 Definitions.

The following definitions and terms apply to this part:

(a) *Act* means the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 321 *et seq.*, as amended.

(b) *Importer* means the initial distributor of an imported device who is required to register under section 510 of the act and § 807.20 of this chapter. *Importer* does not include anyone who only performs a service for the person who furthers the marketing, i.e., brokers, jobbers, or warehousemen.

(c) *Manufacturer* means any person, including any importer, repacker, or relabeler, who manufactures, prepares, propagates, compounds, assembles, or processes a device or engages in any of the activities described in § 807.3(d) of this chapter.

(d) *Device failure* means the failure of a device to perform or function as intended, including any deviations from the device's performance specifications or intended use.

(e) *Serious adverse health consequences* means any significant adverse experience related to a device, including device-related events which are life-threatening or which involve permanent or long-term injuries or illnesses.

(f) *Permanently implantable device* means a device that is intended to be placed into a surgically or naturally formed cavity of the human body to continuously assist, restore, or replace the function of an organ system or structure of the human body throughout the useful life of the device. The term does not include any device which is intended and used for temporary purposes or which is intended for explanation.

(g) *Life-supporting or life-sustaining device used outside a device user facility* means a device which is essential, or yields information that is essential, to the restoration or continuation of a bodily function important to the continuation of human life that is intended for use outside a hospital, nursing home, ambulatory surgical facility, or diagnostic or outpatient treatment facility. Physicians' offices are not device user facilities and, therefore, devices used therein are subject to tracking if they otherwise satisfy the statutory and regulatory criteria.

(h) *Distributor* means any person who furthers the distribution of a device from the original place of manufacture to the person who makes delivery or sale to the ultimate user, i.e., the final or multiple distributor, but who does not repackage or otherwise change the container, wrapper, or labeling of the device or device package.

(i) *Final distributor* means any person who distributes a tracked device intended for use by a single patient over the useful life of the device to the patient. This term includes, but is not limited to, licensed practitioners, retail pharmacies, hospitals, and other types of device user facilities.

(j) *Distributes* means any distribution of a tracked device, including the charitable distribution of a tracked device. This term does not include the distribution of a device under an effective investigational device exemption in accordance with section 520(g) of the act and part 812 of this chapter or the distribution of a device for teaching, law enforcement, research, or analysis as specified in § 801.125 of this chapter.

(k) *Multiple distributor* means any device user facility, rental company, or any other entity that distributes a life-sustaining or life-supporting device intended for use by more than one patient over the useful life of the device.

(l) *Licensed practitioner* means a physician, dentist, or other health care practitioner licensed by the law of the State in which he or she practices to use or order the use of the tracked device.

(m) Any term defined in section 201 of the act shall have the same definition in this part.

§ 821.4 Imported devices.

For purposes of this part, the importer of a tracked device shall be considered the manufacturer and shall be required to comply with all requirements of this part applicable to manufacturers. Importers must keep all information required under this part in the United States.

Subpart B—Tracking Requirements

§ 821.20 Devices subject to tracking.

(a) A manufacturer of any device the failure of which would be reasonably likely to have a serious adverse health consequence, that is either a life-sustaining or life-supporting device used outside of a device user facility or a permanently implantable device, or a manufacturer of any other device that FDA, in its discretion, designates for tracking, shall track that device in accordance with this part.

(b) Manufacturers have the responsibility to identify devices that meet the criteria for tracking and to initiate tracking. By way of illustration and to provide guidance, FDA has set out below a list of example devices it regards as subject to tracking under the criteria set forth in this regulation.

(1) Permanently Implantable Devices.

| 21 CFR | Classification |
|-----------------|--|
| 870.3450 | Vascular graft prosthesis of less than 6 millimeters diameter. |
| 870.3460 | Vascular graft prosthesis of 6 millimeters and greater diameter. |
| 870.3545 | Ventricular bypass (assist) device. |
| 870.3610 | Implantable pacemaker pulse generator. |
| 870.3680 | Cardiovascular permanent pacemaker electrode. |
| 870.3800 | Annuloplasty ring. |
| 870.3925 | Replacement heart valve. |
| (No cite) | Automatic implantable cardioverter/defibrillator. |
| 878.3720 | Tracheal prosthesis. |
| 882.5820 | Implanted cerebellar stimulator. |
| 882.5830 | Implanted diaphragmatic/phrenic nerve stimulator. |
| (No cite) | Implantable infusion pumps. |

(2) Life-sustaining or life-supporting devices used outside device user facilities.

| 21 CFR | Classification |
|----------------|---|
| 868.2375 | Breathing frequency monitors (apnea monitors) (including ventilatory efforts monitors). |
| 868.5895 | Continuous ventilator. |
| 870.5300 | DC-defibrillator and paddles. |

(c) FDA designates the following devices as subject to tracking. Manufacturers must track these devices in accordance with this part.

| 21 CFR | Classification |
|-----------------|---|
| 878.3530 | Silicone inflatable breast prosthesis. |
| 878.3540 | Silicone gel-filled breast prosthesis. |
| 876.3750 | Testicular prosthesis, silicone gel-filled. |
| (No cite) | Silicone gel-filled chin prosthesis. |
| (No cite) | Silicone gel-filled angel chick reflux valve. |

| 21 CFR | Classification |
|----------------|--|
| 878.5725 | Infusion pumps (Electromechanical only). |

(d) FDA, when responding to premarket notification submissions and approving premarket approval applications, will notify the sponsor that FDA believes the device meets the criteria of section 519(e)(1) of the act and therefore should be tracked. FDA will also, after notifying the sponsor, publish a notice in the *Federal Register* announcing that FDA believes that a new generic type of device is subject to tracking and soliciting comment on FDA's position. If the device is a new generic type of device not already on the example list above, FDA will add it to this list.

§ 821.25 Device tracking system and content requirements: manufacturer requirements

(a) A manufacturer of a tracked device shall adopt a method of tracking for each such type of device that the manufacturer distributes that enables it to provide FDA with the following information in writing for each tracked device distributed:

(1) Except as required by order under section 518(e) of the act, within 3 working days of a request from FDA, prior to the distribution of a tracked device to a patient, the name, address, and telephone number of the distributor, multiple distributor, or final distributor holding the device for distribution and the location of the device;

(2) Within 10 working days of a request from FDA for life-sustaining or life-supporting devices used outside a device user facility that are intended for use by a single patient over the life of the device and permanent implant that are tracked devices, after distribution to or implantation in a patient:

(i) The lot number, batch number, model number or serial number of the device, or other identifier necessary to provide for effective tracking of the devices;

(ii) The date the device was shipped by the manufacturer;

(iii) The name, address, telephone number, and social security number (if available) of the patient receiving the device;

(iv) The date the device was provided to the patient;

(v) The name, mailing address, and telephone number of the prescribing physician;

(vi) The name, mailing address, and telephone number of the physician regularly following the patient if

different than the prescribing physician; and

(vii) If applicable, the date the device was explanted and the name, mailing address, and telephone number of the explanting physician; the date of the patient's death; or the date the device was returned to the manufacturer, permanently retired from use, or otherwise permanently disposed of.

(3) Except as required by order under section 518(e) of the act, within 10 working days of a request from FDA for life-sustaining or life-supporting devices used outside device user facilities that are intended for use by more than one patient and that are tracked devices, after the distribution of the device to the multiple distributor:

(i) The lot model number, batch number, serial number of the device, or other identifier necessary to provide for effective tracking of the device;

(ii) The date the device was shipped by the manufacturer;

(iii) The name, address, and telephone number of the multiple distributor;

(iv) The name, address, telephone number, and social security number (if available) of the patient using the device;

(v) The location of the device;

(vi) The date the device was provided for use by the patient;

(vii) The name, address, and telephone number of the prescribing physician; and

(viii) If and when applicable, the date the device was returned to the manufacturer, permanently retired from use, or otherwise permanently disposed of.

(b) A manufacturer of a tracked device shall keep current records in accordance with its standard operating procedure of the information identified in paragraphs (a)(1), (a)(2) and (a)(3)(i) through (a)(3)(iv) of this section on each tracked device released for distribution for as long as such device is in use or in distribution for use.

(c) A manufacturer of a tracked device shall establish a written standard operating procedure for the collection, maintenance, and auditing of the data specified in paragraphs (a) and (b) of this section. A manufacturer shall make this standard operating procedure available to FDA upon request. A manufacturer shall incorporate the following into the standard operating procedure:

(1) Data collection and recording procedures, which shall include a procedure for recording when data which is required under this part is missing and could not be collected and the reason why such required data is missing and could not be collected;

(2) A method of recording all modifications or changes to the tracking system or to the data collected and maintained under the tracking system, reasons for any modification or change, and dates of any modification or change. Modification and changes included under this requirement include modifications to the data (including termination of tracking), the data format, the recording system, and the file maintenance procedures systems; and

(3) A quality assurance program that includes an audit procedure to be run for each device product subject to tracking, at not less than 6-month intervals for the first 3 years of distribution and at least once a year thereafter. This audit procedure shall provide for statistically relevant sampling of the data collected to ensure the accuracy of data and performance testing of the functioning of the tracking system.

(d) When a manufacturer becomes aware that a distributor, final distributor, or multiple distributor has not collected, maintained, or furnished any record or information required by this part, the manufacturer shall notify the FDA district office responsible for the area in which the distributor, final distributor, or multiple distributor is located of the failure of such persons to comply with the requirements of this part. Manufacturers shall have taken reasonable steps to obtain compliance by the distributor, multiple distributor, or final distributor in question before notifying FDA.

Subpart C—Additional Requirements and Responsibilities

§ 821.30 Tracking obligations of persons other than device manufacturers: distributor requirements.

(a) A distributor, final distributor, or multiple distributor of any tracked device shall, upon purchasing or otherwise acquiring any interest in such a device, promptly provide the manufacturer tracking the device with the following information:

(1) The name and address of the distributor, final distributor or multiple distributor;

(2) The lot number, batch number, model number, or serial number of the device, or other identifier used by the manufacturer to track the device;

(3) The date the device was received;

(4) The person from whom the device was received;

(5) If and then applicable, the date the device was explanted, the date of the patient's death, or the date the device was returned to the distributor, permanently retired from use, or otherwise permanently disposed of.

(b) A final distributor, upon sale or other distribution of a tracked device for use in or by the patient, shall promptly provide the manufacturer tracking the device with the following information:

(1) The name and address of the final distributor;

(2) The lot number, batch number, model number, or serial number of the device, or other identifier used by the manufacturer to track the device;

(3) The name, address, telephone number, and social security number (if available) of the patient receiving the device;

(4) The date the device was provided to the patient or for use in the patient;

(5) The name, mailing address, and telephone number of the prescribing physician;

(6) The name, mailing address, and telephone number of the physician regularly following the patient if different than the prescribing physician; and

(7) When applicable, the date the device was explanted and the name, mailing address, and telephone number of the explanting physician, the date of the patient's death, or the date the device was returned to the manufacturer, permanently retired from use, or otherwise permanently disposed of.

(c)(1) A multiple distributor shall keep written records of the following each time such device is distributed for use by a patient:

(i) The lot number, batch number, or model number, or serial number of the device, or other identifier used by the manufacturer to track the device;

(ii) The name, address, telephone number, and social security number (if available) of the patient using the device;

(iii) The location of the device;

(iv) The date the device was provided for use by the patient;

(v) The name, address, and telephone number of the prescribing physician;

(iv) The name, address, and telephone number of the physician regularly following the patient if different than the prescribing physician; and

(vii) When applicable, the date the device was permanently retired from use or otherwise permanently disposed of.

(2) Except as required by order under section 518(e) of the act, any person who is a multiple distributor subject to the recordkeeping requirement of paragraph (c)(1) of this section shall, within 5 working days of a request from the manufacturer or within 10 working days of a request from FDA for the information identified in paragraph

(c)(1) of this section, provide such information to the manufacturer or FDA.

(3) A distributor, final distributor, or multiple distributor shall make any records required to be kept under this part available to the manufacturer of the tracked device for audit upon written request by an authorized representative of the manufacturer.

Subpart D—Records and Inspections

§ 821.50 Availability.

(a) Manufacturers, distributors, multiple distributors, and final distributors shall, upon the presentation by an FDA representative of official credentials and the issuance of Form FD 482 at the initiation of an inspection of an establishment or person under section 704 of the act, make each record and all information required to be collected and maintained under this part and all records and information related to the events and persons identified in such records available to FDA personnel.

(b) Records and information referenced in paragraph (a) of this

section shall be available to FDA personnel for purposes of reviewing, copying, or any other use related to the enforcement of the act and this part. Records required to be kept by this part shall be kept within the United States.

§ 821.55 Confidentiality.

(a) Records and other information submitted to FDA under this part shall be protected from public disclosure to the extent permitted under part 20 of this chapter, and in accordance with § 20.63 of this chapter, information contained in such records that would identify patient or research subjects shall not be available for public disclosure except as provided in those parts.

(b) Patient names or other identifiers may be disclosed to a manufacturer or other person subject to this part or to a physician when the health or safety of the patient requires that such persons have access to the information. Such notification will be pursuant to agreement that the record or information will not be further disclosed except as the health aspects of the patient

requires. Such notification does not constitute public disclosure and will not trigger the availability of the same information to the public generally.

§ 821.60 Retention of records.

Persons required to maintain records under this part shall maintain such records for the useful life of each tracked device they manufacture or distribute. The useful life of a device is the time a device is in use or in distribution for use. For example, a record may be retired if the person maintaining the record becomes aware of the fact that the device is no longer in use, has been explanted, returned to the manufacturer, or the patient has died.

David A. Kessler,

Commissioner of Food and Drugs.

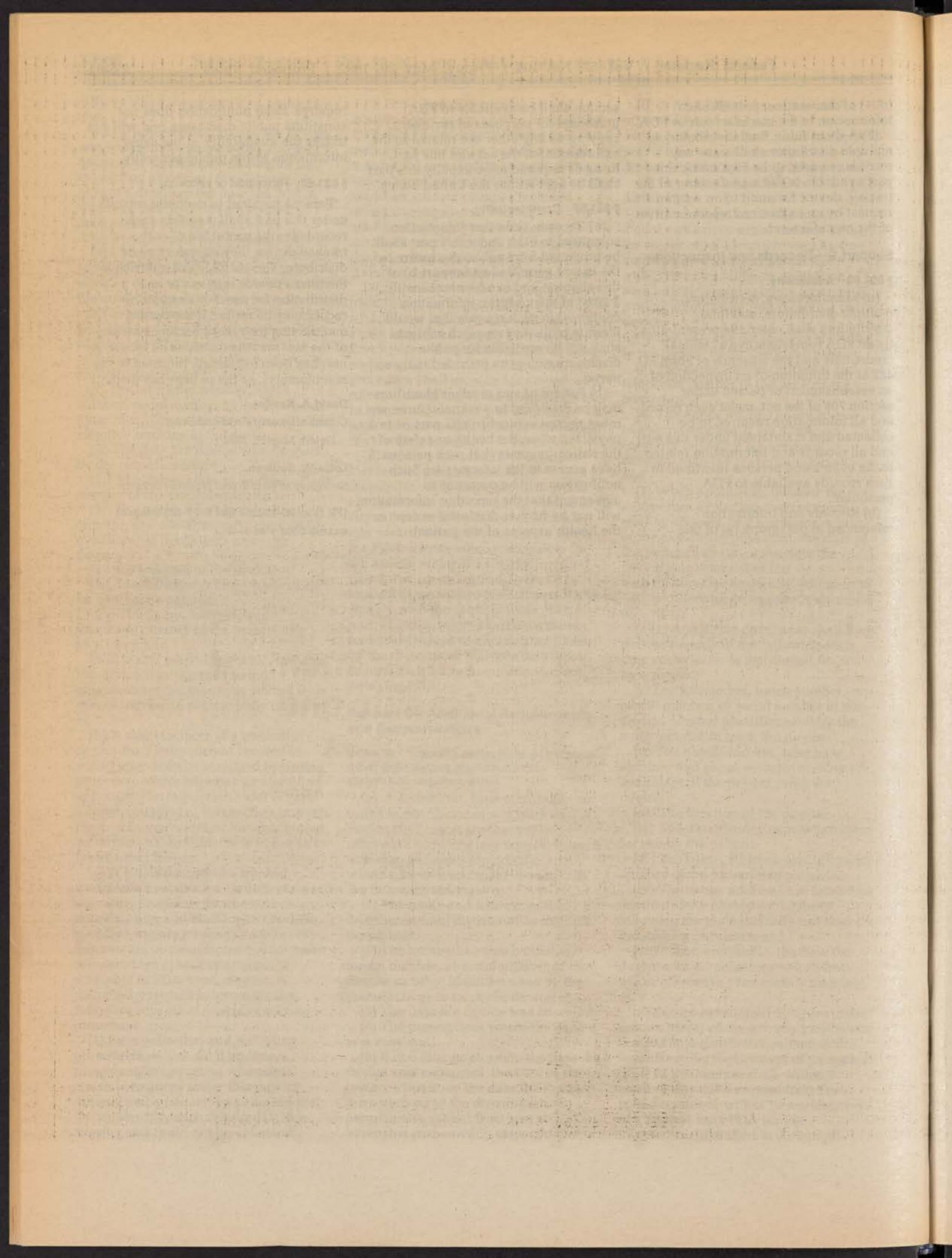
Dated: May 26, 1992.

Louis W. Sullivan,

Secretary of Health and Human Services.

[FR Doc. 92-12622 Filed 5-27-92; 8:45 am]

BILLING CODE 4160-01-M



Food and Drug Administration

Friday
May 29, 1992

Part IX

Department of Health and Human Services

Food and Drug Administration

Statement of Policy: Foods Derived From New Plant Varieties; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 92N-0139]

Statement of Policy: Foods Derived From New Plant Varieties

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing a policy statement on foods derived from new plant varieties, including plants developed by recombinant deoxyribonucleic acid (DNA) techniques. This policy statement is a clarification of FDA's interpretation of the Federal Food, Drug, and Cosmetic Act (the act), with respect to new technologies to produce foods, and reflects FDA's current judgment based on new plant varieties now under development in agricultural research. This action is being taken to ensure that relevant scientific, safety, and regulatory issues are resolved prior to the introduction of such products into the marketplace.

DATES: Written comments by August 27, 1992.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Regarding Human Food Issues: James H. Maryanski, Center for Food Safety and Applied Nutrition (HFF-300), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-3617. Regarding Animal Feed Issues: William D. Price, Center for Veterinary Medicine (HFV-221), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8724.

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I. Background and Overview of Policy

New methods of genetically modifying plants are being used to develop new varieties that will be sources of foods. These methods, including recombinant DNA techniques and cell fusion techniques, enable developers to make genetic modifications in plants, including some modifications that would not be possible with traditional plant breeding methods. This policy discusses the safety and regulatory status of foods derived from new plant varieties, including plants developed by the newer methods of genetic modification.

FDA has received numerous inquiries from industry, government agencies, academia, and the public requesting clarification of the regulatory status of foods, such as fruits, vegetables, grains and their byproducts, derived from new plant varieties developed using recombinant DNA techniques. The questions that FDA has received center on issues such as whether the agency will conduct premarket review of these new foods, whether such foods introduced into interstate commerce would be challenged by FDA on legal grounds, which new plant varieties might come under the jurisdiction of FDA, what scientific information may be necessary to satisfy FDA that such foods are safe and comply with the law, whether petitions would be required by the agency, and whether special labeling would be required.

Representatives of the food biotechnology industry have expressed to FDA the need for strong but appropriate oversight by Federal agencies to ensure public confidence in foods produced by the new techniques. FDA has received several specific comments and suggestions from the industry and from the public concerning Federal oversight of foods developed through new methods of genetically modifying plants (Refs. 1 through 4). The agency has considered these and other documents, including scientific research papers, in developing this notice, and is setting forth this policy statement to clarify its interpretation of the act with respect to human foods and animal feeds¹ derived from new plant varieties,² including but not limited to plants developed by new methods of genetic modification.³

Under this policy, foods, such as fruits, vegetables, grains, and their byproducts, derived from plant varieties developed by the new methods of genetic modification are regulated within the existing framework of the act, FDA's implementing regulations, and current practice, utilizing an approach identical in principle to that applied to foods developed by traditional plant breeding. The regulatory status of a food, irrespective of the method by which it is developed, is dependent upon objective characteristics of the food and the intended use of the food (or its components). The method by which food is produced or developed may in some cases help to understand the safety or nutritional characteristics of the finished food. However, the key factors in reviewing safety concerns should be the characteristics of the food product,

¹ "Food" means (1) Articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article (section 201(f) of the act (21 U.S.C. 321(f))). "Food" includes human food, substances migrating to food from food-contact articles, pet food, and animal feed (21 CFR 170.3(m)). "Animal feed" means "an article which is intended for use for food for animals or other than man and which is intended for use as a substantial source of nutrients in the diet of the animal, and is not limited to a mixture intended to be the sole ration of the animal" (section 201(x) of the act (21 U.S.C. 321(x))).

² "Variety" is used here as a general term to describe subgroups (whether varieties or cultivars) of plants within a species developed for desirable traits.

³ "Genetic modification" means the alteration of the genotype of a plant using any technique, new or traditional. "Modification" is used in a broad context to mean the alteration in the composition of food that results from adding, deleting, or changing hereditary traits, irrespective of the method. Modifications may be minor, such as a single mutation that affects one gene, or major alterations of genetic material that affect many genes. Most, if not all, cultivated food crops have been genetically modified.

rather than the fact that the new methods are used.

The safety of a food is regulated primarily under FDA's postmarket authority of section 402(a)(1) of the act (21 U.S.C. 342(a)(1)). Unintended occurrences of unsafe levels of toxicants in food are regulated under this section. Substances that are expected to become components of food as result of genetic modification of a plant and whose composition is such or has been altered such that the substance is not generally recognized as safe (GRAS) or otherwise exempt are subject to regulation as "food additives" under section 409 of the act (21 U.S.C. 348). Under the act, substances that are food additives may be used in food only in accordance with an authorizing regulation.

In most cases, the substances expected to become components of food as a result of genetic modification of a plant will be the same as or substantially similar to substances commonly found in food, such as proteins, fats and oils, and carbohydrates. As discussed in more detail in section V.C., FDA has determined that such substances should be subject to regulation under section 409 of the act in those cases when the objective characteristics of the substance raise questions of safety sufficient to warrant formal premarket review and approval by FDA. The objective characteristics that will trigger regulation of substances as food additives are described in the guidance section of this notice (section VII.).

The guidance section also describes scientific considerations that are important in evaluating the safety and nutritional value of foods for consumption by humans or animals, regardless of whether the food is regulated under section 402(a)(1) or section 409 of the act. The guidance section outlines a "decision tree" approach to safety assessment of foods derived from new plant varieties that FDA believes is compatible with current practice among scientists knowledgeable in this area. The guidance section also identifies certain scientific questions that may raise sufficient safety concern to warrant consultation with FDA.

Finally, this notice addresses FDA's responsibility under the National Environmental Policy Act (NEPA) and the food labeling provisions of the act as such provisions affect labeling of foods derived from new plant varieties.

This policy statement reflects FDA's current judgment based on the new plant varieties now under development in agricultural research. FDA invites comments on this document. Because

scientific developments in this field are occurring rapidly, FDA will refine its policy, if circumstances warrant, in a future **Federal Register** notice. Additionally, FDA plans to announce in a future **Federal Register** notice a workshop to discuss specific scientific issues. FDA invites comment on topics that might be addressed at such a workshop.

II. Responsibility for Food Safety

FDA is the primary Federal agency responsible for ensuring the safety of commercial food and food additives, except meat and poultry products. FDA works closely on food safety matters with the U.S. Department of Agriculture (USDA), which regulates meat and poultry products, and with the U.S. Environmental Protection Agency (EPA), which regulates pesticides and sets tolerances for pesticide residues in food. FDA's authority is under the act, the Public Health Service Act, and FDA's implementing regulations codified in title 21 of the CFR. The act gives FDA broad authority to initiate legal action against a food that is adulterated or misbranded within the meaning of the act.

Producers of new foods have an obligation under the act to ensure that the foods they offer consumers are safe and in compliance with applicable legal requirements. Because in some cases the regulatory jurisdiction of a new food product including those produced using innovative methods may not be clear, producers can informally consult with FDA prior to marketing new foods to ensure that the safety and regulatory status of a new food is properly resolved.

Elsewhere in this issue of the **Federal Register**, FDA announces the filing of the first request by a producer for consultation with FDA concerning a new plant variety developed by recombinant DNA techniques. The request submitted by Calgene, Inc., (Calgene) concerns the FLAVR SAVR™ tomato, a new variety claimed to exhibit improved fruit ripening and other properties. Because Calgene made this request prior to the finalization of this policy statement, FDA advised the firm to submit the information about the tomato initially as a request for advisory opinion under § 10.85 (21 CFR 10.85) to permit the agency to consider the status of the new variety, and to utilize an evaluation process that is open to public comment and permits the agency to make its decision known to the public. Future requests for FDA consultation should be made consistent with the principles outlined in this notice. Thus, FDA does not anticipate that future

requests of this nature will be filed under § 10.85

III. Scope of This Document

This notice discusses scientific and regulatory considerations for foods derived from new plant varieties. This notice does not address foods and food ingredients regulated by FDA that have been derived from algae, microorganisms, and other nonplant organisms, including: (1) Foods produced by fermentation, where microorganisms are essential components of the food (e.g., yogurt and single cell protein); (2) food ingredients produced by fermentation, such as many enzymes, flavors, amino acids, sweeteners, thickeners, antioxidants, preservatives, colors, and other substances; (3) substances produced by new plant varieties whose purpose is to color food, and (4) foods derived from animals that are subject to FDA's authority, including seafood. FDA is considering whether to address these issues in future **Federal Register** notices.

Finally, the principles discussed in this notice do not apply to "new drugs" as defined by section 201 (p) of the act (21 U.S.C. 321(p)), "new animal drugs" as defined by section 201(w) of the act (21 U.S.C. 321(w)), or to "pesticide chemicals" as defined by section 201(q) of the act. As discussed in section IX., EPA is responsible for pesticide chemicals, including those produced in plants as a result to genetic modification.

IV. Scientific Issues Relevant to Public Health

Plant breeding is the science of combining desirable genetic traits into a variety that can be used in agriculture. The desired traits can be broadly divided into two classes: Those that affect agronomic characteristics of the plant, and those that affect quality characteristics of the food. Agronomic characteristics include those affecting yield; resistance to diseases, insects, and herbicides; and ability to thrive under various adverse environmental conditions. Quality characteristics include those affecting processing, preservation, nutrition, and flavor.

The genetic modification techniques used to develop new plant varieties constitute a continuum. Traditional breeding typically consists of hybridization between varieties of the same species and screening for progeny with desired characteristics. Such hybridizations only can introduce traits found in close relatives. Breeders have developed or adopted a number of techniques to expand the range of

genetic variation available to them. These techniques introduce variation either by using mutagenesis to alter the genome or by introducing or modifying DNA segments, including DNA segments derived from other organisms.

Mutagenic techniques include both random mutagenesis, resulting from treatment with chemical and physical mutagens, and somaclonal variation, whereby, with the use of tissue culture techniques, plants are regenerated from callus or leaf tissue explants. The regenerated plants often have properties not found in the progenitor plant, reflecting both preexisting cellular genetic differences and tissue-culture induced mutations. The mutations range from single gene changes to chromosomal rearrangements. Mutagenesis techniques are limited, however, by their inability to target a desired trait. Somaclonal variants also frequently are unstable or infertile.

Techniques for gene transfer between plants that belong to different species or genera fall under the general heading of "wide crosses." These "crosses" have been accomplished using hybridization, and protoplast fusion. Traditional wide crosses involve hybridization between closely related species or genera, frequently requiring the use of special techniques such as embryo rescue and chromosome doubling to overcome physical or genetic barriers to the production of fertile progeny. They permit the transfer of genetic traits that are not present in close relatives of the modern plant varieties but are found in more distant wild relatives. Traits that confer resistance to a number of diseases have been introduced this way.

All of the techniques described above require extensive back crossing with the parent line ⁴ to eliminate mutations unlinked to that responsible for the desired phenotype and undesirable traits in extraneous genetic material introduced along with that encoding the desired trait.

Recombinant DNA techniques involve the isolation and subsequent introduction of discrete DNA segments containing the gene(s) of interest into recipient (host) plants. The DNA segments can come from any organism (microbial, animal, or plant). In theory, essentially any trait whose gene has been identified can be introduced into virtually any plant, and can be introduced without extraneous unwanted genetic material. Since these techniques are more precise, they

increase the potential for safe, better-characterized, and more predictable foods.

DNA segments introduced using the new techniques insert semi-randomly into the chromosome, frequently in tandem multiple copies, and sometimes in more than one site on the chromosome. Both the number of copies of the gene and its location in the chromosome can affect its level of expression, as well as the expression of other genes in the plant. To ensure homozygosity and to enhance the stability of the line and the ability to cross the trait into other lines, the breeder will often perform a limited number of back crosses to ensure that the plant line has the new trait inserted in only one location in the chromosome.

Additionally, as with other breeding techniques, the phenotypic effects of a new trait may not always be completely predictable in the new genetic background of the host. Therefore, it is common practice for breeders using recombinant DNA techniques to cross the new trait into a number of hosts to find the best genetic background for expression of the new trait. Currently, for most crops only a few lines or varieties of any species are amendable to the use of recombinant DNA techniques. Once the desired trait is introduced into a line amenable to the technique, it must then be crossed by traditional means to other desired lines or varieties.

Regardless of the particular combination of techniques used, the development of a new plant variety typically will require many site-years (number of sites x number of years of plant testing) of performance trials before introduction into agricultural practice. These range from as few as 10 to 20 site-years for some plants to 75 to 100 site-years for others (some 5 to 10 years). The time of evaluation and the size and number of sites will vary as necessary to confirm performance; to reveal vulnerabilities to pests, diseases, or other production hazards; to evaluate stability of the phenotype; to evaluate characteristics of the food; to evaluate environmental effects; and to produce the required amount of seed before the new plant variety can be grown commercially by farmers. In the course of this intensive assessment, individual plants exhibiting undesirable traits are eliminated.

Recombinant DNA techniques are used to achieve the same types of goals as traditional techniques: The development of new plant varieties with enhanced agronomic and quality characteristics. Currently, over 30

different agricultural crops developed using recombinant DNA techniques are in field trials. Food crops have been developed using these techniques to exhibit improved resistance to pests and disease and to chemical herbicides. For example, a plant's ability to resist insect infestation reportedly has been improved by transferring bacterial genetic material that encodes proteins toxic to certain insects (e.g., *Bacillus thuringiensis delta* endotoxin). Other plants have been given viral coat-protein genes that confer cross-protection to viral pathogens.

Other new plant varieties have been developed that exhibit traits for improved food processing, improved nutritional content, or enhanced protection against adverse weather conditions. For example, genetic modifications of plant enzymes involved in fruit ripening may yield tomatoes with improved ripening characteristics, texture, and flavor. Scientists have used recombinant DNA techniques to transfer genetic material for the production of seed storage protein conferring improvements in nutritional balance of important amino acids in the new plant varieties. Scientists have also identified genes in certain fish that encode proteins that confere increased resistance to cold. Copies of these genes have been introduced into agricultural crops with the goal of producing new plant varieties that show improved tolerance to cold weather conditions.

These examples illustrate only a few of the many improved agronomic and food processing traits currently being introduced into plants using recombinant DNA techniques. Any genetic modification technique has the potential to alter the composition of food in a manner relevant to food safety, although, based on experience, the likelihood of a safety hazard is typically very low. The following paragraphs describe some potential changes in composition that may require evaluation to assure food safety.

A. Unexpected Effects

Virtually all breeding techniques have potential to create unexpected (including pleiotropic ⁵ effects. For example, mutations unrelated to the desired modification may be induced; undesirable traits may be introduced along with the desired traits; newly introduced DNA may physically insert into a transcriptionally active site on the chromosome, and may thereby inactivate a host gene or alter control of

⁴ A line is a group of individuals from a common ancestry. It is a more narrowly defined group than a variety. (Breeding Field Crops, J.M. Poehlman, Van Nostrand Reinhold, New York, 1987.

⁵ Pleiotropic effects refer to multiple effects resulting from a single genetic change.

its expression; the introduced gene product or a metabolic product affected by the genetic change may interact with other cellular products to produce a deleterious effect. Plant breeders using well established practices have successfully identified and eliminated plants that exhibit unexpected, adverse traits prior to commercial use.

B. Known Toxicants

Plants are known to produce naturally a number of toxicants and antinutritional factors, such as protease inhibitors, hemolytic agents, and neurotoxins, which often serve the plant as natural defense compounds against pests or pathogens. For example, most cereals contain protease inhibitors, which can diminish the nutritive value of proteins. Many legumes contain relatively high levels of lectins and cyanogenic glycosides. Lectins, if not destroyed by cooking or removed by soaking, can cause severe nausea, vomiting, and diarrhea. Cyanogenic glycosides can be hydrolyzed by specific enzymes in the plant to release cyanide if food from the plant is improperly prepared. The levels of cyanogenic glycosides in cassava and some legumes can lead to death or chronic neurological disease if these foods are eaten uncooked. Cruciferae contain glucosinolates which may impair thyroid function. Squash and cucumber contain cucurbitacin, an acute toxicant. Chickpeas contain lathrogens, which are neurotoxins.

Many of these toxicants are present in today's foods at levels that do not cause acute toxicity. Others, such as in cassava and some legumes, are high enough to cause severe illness or death if the foods are not properly prepared. FDA seek to assure that new plant varieties do not have significantly higher levels of toxicants than present in other edible varieties of the same species.

Plants, like other organisms, have metabolic pathways that no longer function due to mutations that occurred during evolution. Products or intermediates of some such pathways may include toxicants. In rare cases, such silent pathways may be activated by mutations, chromosomal rearrangements, or new regulatory regions introduced during breeding, and toxicants hitherto not associated with a plant species may thereby be produced. Similarly, toxicants ordinarily produced at low levels in a plant may be produced at high levels in a new variety as a result of such occurrences. The likelihood of activation of quiescent pathways or increased expression from active pathways is considered extremely low in food plants with a long

history of use that have never exhibited production of unknown or unexpected toxins, since the genetic changes that can lead to such events occur during growth and are induced with traditional breeding manipulations. In the few cases where toxicants have been raised to unsafe levels in a commercial plant variety, the toxicants were known to occur in significant levels in one of the parent species. Except in rare cases, plant breeders using well established practices have successfully identified and eliminated plants that express unacceptably high levels of toxicants prior to commercial use.

C. Nutrients

Another unintended consequence of genetic modification of the plant may be a significant alteration in levels of important nutrients. In addition, changes in bioavailability of a nutrient due to changes in form of the nutrient or the presence of increased levels of other constituents that affect absorption or metabolism of nutrients must be considered for potential nutritional impact.

D. New Substances

Because plant breeders using the new techniques are able to introduce essentially any trait or substance whose molecular genetic identity is known into virtually any plant, it is possible to introduce a protein that differs significantly in structure or function, or to modify a carbohydrate, fat or oil, such that it differs significantly in composition from such substances currently found in food.

E. Allergenicity

All food allergens are proteins. However, only a small fraction of the thousands of proteins in the diet have been found to be food allergens. FDA's principal concern regarding allergenicity is that proteins transferred from one food source to another, as is possible with recombinant DNA and protoplast fusion techniques, might confer on food from the host plant the allergenic properties of food from the donor plant. Thus, for example, the introduction of a gene that encodes a peanut allergen into corn might make that variety of corn newly allergenic to people ordinarily allergic to peanuts.

Examples of foods that commonly cause an allergic response are milk, eggs, fish, crustacea, molluscs, tree nuts, wheat, and legumes (particularly peanuts and soybeans). The sensitive population is ordinarily able to identify and avoid the offending food. However, if the allergen were moved into a variety of a plant species that never before

produced that allergen, the susceptible population would not know to avoid food from that variety.

In some foods that commonly cause an allergic response, the particular protein(s) responsible for allergenicity is known, and therefore the producer may know whether the transferred protein is the allergen. However, in other cases, the protein responsible for a food's allergenicity is not known, and FDA considers it prudent practice for the producer initially to assume that the transferred protein is the allergen. Appropriate *in vitro* or *in vivo* allergenicity testing may reveal whether food from the new variety elicits an allergic response in the potentially sensitive population (i.e., people sensitive to the food in which the protein is ordinarily found). Producers of such foods should discuss allergenicity testing protocol requirements with the agency. Labeling of foods newly containing a known or suspect allergen may be needed to inform consumers of such potential.

A separate issue is whether any new protein in food has the potential to be allergenic to a segment of the population. At this time, FDA is unaware of any practical method of predict or assess the potential for new proteins in food to induce allergenicity and requests comments on this issue.

F. Antibiotic Resistance Selectable Markers

In gene transfer experiments, only a small percentage of the recipient plant cells will actually take up the introduced genes, and many desirable traits (i.e., those that specify the intended technical effect) are not easy to detect before the plant has fully developed. Scientists, therefore, enhance their ability to isolate plant cells that have taken up and stably incorporated the desired genes by physically linking the desired gene to a selectable marker gene, such as a gene that specifies the production of a substance that inactivates antibiotics.

The kanamycin resistance gene is one of the most widely used selectable marker genes. The kanamycin resistance gene specifies the information for the production of the enzyme, aminoglycoside 3'-phosphotransferase II. The common name for this enzyme is kanamycin (or neomycin) phosphotransferase II. The kanamycin phosphotransferase II enzyme modifies aminoglycoside antibiotics, including kanamycin, neomycin, and geneticin (G418), chemically inactivating the antibiotic and rendering the cells that produce the kanamycin resistance gene product refractory or resistant to the

antibiotic. Plant cells that have received and stably express the kanamycin resistance gene survive and replicate on laboratory media in the presence of the antibiotic, kanamycin. Plant cells that did not take up and express the introduced kanamycin resistance gene will be killed by the antibiotic. By linking the selectable marker gene to another gene that specifies a desired trait, scientists can identify and select plants that have taken up and express the desired genes.

The kanamycin resistance gene has been used as a selectable marker in more than 30 crops to develop varieties that exhibit improved nutritional and processing properties, resistance to pests and diseases, tolerance to chemical herbicides, and other agronomic properties. Once the desired plant variety has been selected, the kanamycin resistance gene serves no further useful purpose, although it continues to produce the kanamycin phosphotransferase II enzyme in the plant tissues. Thus, while the kanamycin resistance gene is a research tool that is important for developing new plant varieties through the current recombinant DNA techniques of gene transfer, both the kanamycin resistance gene and its product, the kanamycin phosphotransferase II enzyme protein, are expected to be present in foods derived from such plants, unless removed through recently developed techniques (Ref. 5).

Selectable marker genes that produce enzymes that inactivate clinically useful antibiotics theoretically may reduce the therapeutic efficacy of the antibiotic when taken orally if the enzyme in the food inactivates the antibiotic. FDA believes that it will be important to evaluate such concerns with respect to commercial use of antibiotic resistance marker genes in food, especially those that will be widely used. FDA is now evaluating this and other issues with respect to the use of the kanamycin resistance marker in food. (See 56 FR 20004, May 1, 1991.)

G. Plants Developed to Make Specialty Nonfood Substances

New genetic modification techniques may develop plants that produce nonfood chemicals, such as polymers and pharmaceuticals. In many cases, the plant will not subsequently be used for food. In such cases, the developer must ensure that food-use varieties of the crop do not cross with or become mixed with the nonfood-use varieties. This is not a new issue for breeders and growers. For example, some varieties of rapeseed oil are grown for industrial oil use, and have high levels of toxicants,

such as erucic acid and glucosinolates, while other varieties are grown for food use and have low levels of these substances. Similarly, potatoes grown for industrial uses can have higher levels of solanine than those grown for retail food use. The producer of the oil or potato must ensure that the edible plant variety is not adulterated within the meaning of the act. Developers of crops designed to produce specialty nonfood substances have a comparable obligation.

If plants (or materials derived from plants) used to make nonfood chemicals are also intended to be used for food, producers should consult with FDA to determine whether the nonfood chemical would be a food additive requiring an authorizing regulation prior to marketing for food use.

H. Issues Specific to Animal Feeds

Unlike a food in the human diet, an animal feed derived from a single plant may constitute a significant portion of the animal diet. For instance, 50 to 75 percent of the diet of most domestic animals consists of field corn. Therefore, a change in nutrient or toxicant composition that is considered insignificant for human consumption may be a very significant change in the animal diet.

Further, animals consume plants, plant parts, and plant byproducts that are not consumed by humans. For example, animals consume whole cottonseed meal, whereas humans consume only cotton seed oil. Gossypol, a plant toxicant, is concentrated in the cotton seed meal during the production of cotton seed oil. Because plant byproducts represent an important feed source for animals, it is important to determine if significant concentrations of toxicants or other harmful plant constituents are present in new plant varieties.

Nutrient composition and availability of nutrients in feed are important safety considerations for animal health. For example, if a genetic modification in soybeans caused an increase in phytin content, the soybean feed may need to be supplemented with phosphorous to avoid problems of animal health.

V. Regulatory Status of Foods Derived From New Plant Varieties

A. The Statutory Framework for New Foods and Food Ingredients

The United States today has a food supply that is as safe as any in the world. Most foods derived from plants predate the establishment of national food laws, and the safety of these foods has been accepted based on extensive

use and experience over many years (or even centuries). Foods derived from new plant varieties are not routinely subjected to scientific tests for safety, although there are exceptions. For example, potatoes are generally tested for the glycoalkaloid, solanine. The established practices that plant breeders employ in selecting and developing new varieties of plants, such as chemical analyses, taste testing, and visual analyses, rely primarily on observations of quality, wholesomeness, and agronomic characteristics. Historically, these practices have proven to be reliable for ensuring food safety. The knowledge from this past experience coupled with safe practices in plant breeding has contributed to continuous improvements in the quality, variety, nutritional value, and safety of foods derived from plants modified by a range of traditional and increasingly sophisticated techniques (Ref. 1 at xvi). Based on this record of safe development of new varieties of plants, FDA has not found it necessary to conduct, prior to marketing, routine safety reviews of whole foods derived from plants.

Nevertheless, FDA has ample authority under the act's food safety provisions to regulate and ensure the safety of foods derived from new plant varieties, including plants developed by new techniques. This includes authority to require, where necessary, a premarket safety review by FDA prior to marketing of the food. Under section 402(a)(1) of the act, a food is deemed adulterated and thus unlawful if it bears or contains an added poisonous or deleterious substance that may render the food injurious to health or a naturally occurring substance that is ordinarily injurious. Section 402(a)(1) of the act imposes a legal duty on those who introduce food into the market place, including food derived from new crop varieties, to ensure that the food satisfies the applicable safety standard. Foods that are adulterated under section 402(a)(1) of the act are subject to the full range of enforcement measures under the act, including seizure, injunction, and criminal prosecution of those who fail to meet their statutory duty.

FDA has relied almost exclusively on section 402(a)(1) of the act to ensure the safety of whole foods. Toxins that occur naturally in food and that render the food ordinarily injurious to health (such as poisons in certain mushrooms), and thus adulterated, rarely required FDA regulatory action because such cases are typically well known and carefully avoided by food producers.

FDA regards any substance that is not an inherent constituent of food or whose level in food has been increased by human intervention to be "added" within the meaning of section 402(a)(1) of the act. See *United States v. Anderson Seafoods, Inc.*, 622 F. 2d 157 (5th Cir. 1980). Added substances are subject to the more stringent "may render [the food] injurious" safety standard. Under this standard, the food is adulterated if, by virtue of the presence of the added substance, there is a "reasonable possibility" that consumption of the food will be injurious to health. *United States v. Lexington Mill & Elevator Co.*, 232 U.S. 399 (1914). The "may render injurious" standard would apply to a naturally occurring toxin in food if the level of the toxin in a new plant variety were increased through traditional plant breeding or some other human intervention. Section 402(a)(1) of the act would have been the legal basis under which FDA could have blocked marketing in the 1970's of a new variety of potato that had been found during its development to contain elevated and potentially harmful levels of solanine as a result of a cross with an inedible wild potato.

Section 402(a)(1) of the act is most frequently used by FDA to regulate the presence in food of unavoidable environmental contaminants such as lead, mercury, dioxin, and aflatoxin. FDA regularly establishes action levels and takes enforcement action to prevent the sale of foods that contain unacceptable levels of such unintended and undesired contaminants.

Section 402(a)(1) of the act was signed into law in 1938 and has its origins in a similar provision in the Federal Food and Drugs Act of 1906. Until 1958, this authority was the principal tool relied upon by FDA to regulate the safety of food and food ingredients. In 1958, in response to public concern about the increased use of chemicals in foods and food processing and with the support of the food industry, Congress enacted the Food Additives Amendment (the amendment) to the act. Among other provisions, the amendment established a premarket approval requirement for "food additives." The basic thrust of the amendment was to require that, before a new chemical additive (such as a preservative, antioxidant, emulsifier, or artificial flavor) could be used in food processing, its producer must demonstrate the safety of the additive to FDA. Congress recognized under this new scheme that the safety of an additive could not be established with absolute certainty or under all

conditions of use. Congress thus provided for a science-based safety standard that requires producers of food additives to demonstrate to a reasonable certainty that no harm will result from the intended use of the additive. See 21 CFR 170.3(i). If FDA finds an additive to be safe, based ordinarily on data submitted by the producer to the agency in a food additive petition, the agency promulgates a regulation specifying the conditions under which the additive may be safely used. Food additives that are not the subject of such a regulation are deemed unsafe as a matter of law, and the foods containing them are adulterated under section 402(a)(2)(C) of the act (21 U.S.C. 342(a)(2)(C)) and are thus unlawful.

In enacting the amendment, Congress recognized that many substances intentionally added to food do not require a formal premarket review by FDA to assure their safety, either because their safety had been established by a long history of use in food or because the nature of the substance and the information generally available to scientists about the substance are such that the substance simply does not raise a safety concern worthy of premarket review by FDA. Congress thus adopted a two-step definition of "food additive." The first step broadly includes any substance the intended use of which results in its becoming a component of food. The second step, however, excludes from the definition of food additive substances that are GRAS. It is on the basis of the GRAS exception of the "food additive" definition that many ingredients derived from natural sources (such as salt, pepper, vinegar, vegetable oil, and thousands of spices and natural flavors), as well as a host of chemical additives (including some sweeteners, preservatives, and artificial flavors), are able to be lawfully marketed today without having been formally reviewed by FDA and without being the subject of a food additive regulation. The judgment of Congress was that subjecting every intentional additive to FDA premarket review was not necessary to protect public health and would impose an insurmountable burden on FDA and the food industry.

Congress' approach to defining food additives means, however, that companies developing new ingredients, new versions of established ingredients, or new processes for producing a food or food ingredient must make a judgment about whether the resulting food substance is a food additive requiring premarket approval by FDA.

In many cases, the answer is obvious, such as when the ingredient is a man made chemical having no widely recognized history of safe use in food. Such an ingredient must be approved prior to its use by the issuance of a food additive regulation, based on information submitted to FDA in a food additive petition.

In other cases, the answer is less obvious, such as when an established ingredient derived from nature is modified in some minor way or produced by a new process. In such cases, the manufacturer must determine whether the resulting ingredient still falls within the scope of any existing food additive regulation applicable to the original ingredient or whether the ingredient is exempt from regulation as a food additive because it is GRAS. The GRAS status of some substances is recognized in FDA's regulations (21 CFR parts 182, 184, 186, 582, and 584), but FDA has not attempted to include all GRAS substances in its regulations.

FDA has traditionally encouraged producers of new food ingredients to consult with FDA when there is a question about an ingredient's regulatory status, and firms routinely do so, even though such consultation is not legally required. If the producer begins to market the ingredient based on the producer's independent determination that the substance is GRAS and FDA subsequently concludes the substance is not GRAS, the agency can and will take enforcement action to stop distribution of the ingredient and foods containing it on the ground that such foods are or contain an unlawful food additive.

FDA considers the existing statutory authority under sections 402(a)(1) and 409 of the act, and the practical regulatory regime that flows from it, to be fully adequate to ensure the safety of new food ingredients and foods derived from new varieties of plants, regardless of the process by which such foods and ingredients are produced. The existing tools provide this assurance because they impose a clear legal duty on producers to assure the safety of foods they offer to consumers; this legal duty is backed up by strong enforcement powers; and FDA has authority to require premarket review and approval in cases where such review is required to protect public health.

In the Federal Register of June 26, 1986 (51 FR 23302) (the June 1986 notice), FDA, in conjunction with the Office of Science and Technology Policy in the Executive Office of the President, described FDA's current food safety authorities and stated the agency's intention to regulate foods produced by

new methods, such as recombinant DNA techniques, within the existing statutory and regulatory framework. This notice reaffirms that intention. The following paragraphs explain briefly how the current framework will apply specifically to foods derived from new plant varieties, including plants developed by recombinant DNA techniques.

B. The Application of Section 402(a)(1) of the Act

Section 402(a)(1) of the act will continue to be FDA's primary legal tool for regulating the safety of whole foods, including foods derived from plants genetically modified by the new techniques. Section 402(a)(1) of the act will be applied to any substance that occurs unexpectedly in the food at a level that may be injurious to health. This includes a naturally occurring toxicant whose level is unintentionally increased by the genetic modification, as well as an unexpected toxicant that first appears in the food as a result of pleiotropic effects. Such substances are regarded by FDA as added substances whose presence adulterates the food if present at a level that "may render" the food injurious to health.

It is the responsibility of the producer of a new food to evaluate the safety of the food and assure that the safety requirement of section 402(a)(1) of the act is met. In section VII, FDA provides guidance to the industry regarding prudent, scientific approaches to evaluating the safety of foods derived from new plant varieties, including the safety of the added substances that are subject to section 402(a)(1) of the act. FDA encourages informal consultation between producers and FDA scientists to ensure that safety concerns are resolved. However, producers remain legally responsible for satisfying section 402(a)(1) of the act, and they will continue to be held accountable by FDA through application of the agency's enforcement powers.

C. The Application of Section 409 of the Act

When Congress enacted the amendment in 1958, it did not explicitly address the possible application of the food additive approval process to foods derived from new plant varieties. As previously discussed, such foods have historically been regulated successfully under section 402(a)(1) of the act. The new methods of genetic modification have focused attention, however, on the possibility that intended changes in the composition of food resulting from genetic modification might be of a nature sufficient as a legal and public

health matter to trigger regulation of a component of the food under section 409 of the act.

As discussed above, the food additive definition broadly encompasses any substance that has an intended use in food, unless the substance is GRAS. It was on this basis that the June 1986 notice indicated that, in some cases, whole foods derived from new plant varieties, including plants developed by new genetic modification techniques, might fall within the scope of FDA's food additive authority. Indeed, FDA's regulations have long recognized that it might be appropriate in some circumstances to review the GRAS (and implicitly food additive) status of foods or substances of natural biological origin that have a history of safe use but which subsequently have had "significant alteration by breeding and selection." (See 21 CFR 170.30(f).) As already discussed, however, FDA has rarely had occasion to review the GRAS status of foods derived from new plant varieties because these foods have been widely recognized and accepted as safe.

FDA has reviewed its position on the applicability of the food additive definition and section 409 of the act to foods derived from new plant varieties in light of the intended changes in the composition of foods that might result from the newer techniques of genetic modification. The statutory definition of "food additive" makes clear that it is the intended or expected introduction of a substance into food that makes the substance potentially subject to food additive regulation. Thus, in the case of foods derived from new plant varieties, it is the transferred genetic material and the intended expression product or products that could be subject to food additive regulation, if such material or expression products are not GRAS.

In regulating foods and their byproducts derived from new plant varieties, FDA intends to use its food additive authority to the extent necessary to protect public health. Specifically, consistent with the statutory definition of "food additive" and the overall design of FDA's current food safety regulatory program, FDA will use section 409 of the act to require food additive petitions in cases where safety questions exist sufficient to warrant formal premarket review by FDA to ensure public health protection.

With respect to transferred genetic material (nucleic acids), generally FDA does not anticipate that transferred genetic material would itself be subject to food additive regulation. Nucleic acids are present in the cells of every living organism, including every plant

and animal used for food by humans or animals, and do not raise a safety concern as a component of food. In regulatory terms, such material is presumed to be GRAS. Although the guidance provided in section VII, calls for a good understanding of the identity of the genetic material being transferred through genetic modification techniques, FDA does not expect that there will be any serious question about the GRAS status of transferred genetic material.

FDA expects that the intended expression product or products present in foods derived from new plant varieties will typically be proteins or substances produced by the action of protein enzymes, such as carbohydrates, and fats and oils. When the substance present in the food is one that is already present at generally comparable or greater levels in currently consumed foods, there is unlikely to be a safety question sufficient to call into question the presumed GRAS status of such naturally occurring substances and thus warrant formal premarket review and approval by FDA. Likewise, minor variations in molecular structure that do not affect safety would not ordinarily affect the GRAS status of the substances and, thus, would not ordinarily require regulation of the substance as a food additive.

It is possible, however, that the intended expression product in a food could be a protein, carbohydrate, fat or oil, or other substance that differs significantly in structure, function, or composition from substances found currently in food. Such substances may not be GRAS and may require regulation as a food additive. For example, if a food derived from a new plant variety contains a novel protein sweetener as a result of the genetic modification of the plant, that sweetener would likely require submission of a food additive petition and approval by FDA prior to marketing. FDA invites comments on substances, in addition to proteins, carbohydrates, and fats and oils, that in the future may be introduced into foods by genetic modification.

Section VII of this notice provides guidance to producers of new foods for conducting safety evaluations. This guidance is intended to assist producers in evaluating the safety of the food that they market, regardless of whether the food requires premarket approval by FDA. This guidance also includes criteria and analytical steps that producers can follow in determining whether their product is a candidate for food additive regulation and whether consultation with FDA should be pursued to determine the regulatory

status of the product. Ultimately, it is the food producer who is responsible for assuring safety.

FDA has long regarded it to be a prudent practice for producers of foods using new technologies to work cooperatively with the agency to ensure that the new products are safe and comply with applicable legal requirements. It has been the general practice of the food industry to seek informal consultation and cooperation, and this practice should continue with respect to foods produced using the newer techniques of genetic modification.

VI. Labeling

FDA has received several inquiries concerning labeling requirements for foods derived from new plant varieties developed by recombinant DNA techniques. Section 403(i) of the act (21 U.S.C. 343(i)) requires that a producer of a food product describe the product by its common or usual name or in the absence thereof, an appropriately descriptive term (21 U.S.C. part 101.3) and reveal all facts that are material in light of representations made or suggested by labeling or with respect to consequences which may result from use (21 U.S.C. 343(a); 21 U.S.C. 321(n)). Thus, consumers must be informed, by appropriate labeling, if a food derived from a new plant variety differs from its traditional counterpart such that the common or usual name no longer applies to the new food, or if a safety or usage issue exists to which consumers must be alerted.

For example, if a tomato has had a peanut protein introduced into it and there is insufficient information to demonstrate that the introduced protein could not cause an allergic reaction in a susceptible population, a label declaration would be required to alert consumers who are allergic to peanuts so they could avoid that tomato, even if its basic taste and texture remained unchanged. Such information would be a material fact whose omission may make the label of the tomato misleading under section 403(a) of the act (21 U.S.C. 343(a)).

FDA has also been asked whether foods developed using techniques such as recombinant DNA techniques would be required to bear special labeling to reveal that fact to consumers. To date, FDA has not considered the methods used in the development of a new plant variety (such as hybridization, chemical or radiation-induced mutagenesis, protoplast fusion, embryo rescue, somaclonal variation, or any other method) to be material information within the meaning of section 201(n) of

the act (21 U.S.C. 321(n)). As discussed above, FDA believes that the new techniques are extensions at the molecular level of traditional methods and will be used to achieve the same goals as pursued with traditional plant breeding. The agency is not aware of any information showing that foods derived by these new methods differ from other foods in any meaningful or uniform way, or that, as a class, foods developed by the new techniques present any different or greater safety concern than foods developed by traditional plant breeding. For this reason, the agency does not believe that the method of development of a new plant variety (including the use of new techniques including recombinant DNA techniques) is normally material information within the meaning of 21 U.S.C. 321(n) and would not usually be required to be disclosed in labeling for the food.

The guidance section (section VII.) of this notice discusses certain circumstances where questions may arise about the proper labeling of foods derived from new plant varieties. FDA requests comments on the labeling of foods derived from new plant varieties, including plants developed with recombinant DNA techniques.

VII. Guidance to Industry for Foods Derived From New Plant Varieties

A. Introduction

This guidance section describes many of the scientific considerations for evaluating the safety and nutritional aspects of food from new plant varieties derived by traditional methods (such as hybridization or mutagenesis), tissue culture methods (such as somaclonal variation and protoplast fusion), and recombinant DNA methods. Although some of the safety considerations are specific to individual technologies, many safety considerations are similar regardless of the technology used. This guidance section does not attempt to delineate acceptable practices for each specific technology. FDA expects plant breeders to adhere to currently accepted scientific standards of practice within each technology. This guidance section is based on existing practices followed by the traditional plant breeders to assess the safety and nutritional value of new plant varieties and is not intended to alter these long-established practices, or to create new regulatory obligations for them.

This guidance section describes food safety and nutritional concerns, rather than performance characteristics for which the new plant varieties may have been developed. However, this guidance

section cannot identify all safety and nutritional questions that could arise in a given situation and, while comprehensive, should not be viewed as exhaustive. In some cases, additional factors may need to be considered, while in other situations, some of the factors may not apply. Therefore, this guidance section also describes situations in which producers should consult with FDA on scientific issues, the design of appropriate test protocols, requirements for labeling, and whether a food additive petition may be required.

Genetic modifications of plants can have unintended or unexpected effects on the phenotype of the plant, such as poor growth or reduced tolerance to conditions of environmental stress, that are readily apparent and can be effectively managed by appropriate selection procedures. However, effects such as an alteration in the concentration of important nutrients, increases in the level of natural toxicants, or the transfer of allergens from one species to another may not be readily detected without specific test procedures. FDA believes that a scientific basis should exist to establish that new plant varieties do not exhibit unacceptable effects with respect to toxicants, nutritional value, or allergens. In cases where the host plant has little or no history of safe use, the assessment of new plant varieties should include evidence that unknown toxicants are not present in the new plant variety at levels that would be injurious to health.

In addition, by using recombinant DNA techniques, plant breeders are now capable theoretically of introducing essentially any trait (and thus substance) whose molecular genetic identity is known into virtually any plant due to the increased power and precision of recombinant DNA techniques. This guidance section, however, discusses only proteins, carbohydrates, and fats and oils, in the belief that these are the principal substances that are currently being intentionally modified or introduced into new plant varieties. Using the new techniques, it is possible to introduce a gene that encodes a protein that differs significantly in structure or function, or to modify a carbohydrate, or fat or oil, such that it differs significantly in composition from such substances currently found in food. FDA believes that plant breeders must carefully evaluate the potential for adverse effects that could result from the presence of these substances in new plant varieties.

Theoretically, genetic modifications have the potential to activate cryptic

pathways synthesizing unknown or unexpected toxicants, or to increase expression from active pathways that ordinarily produce low or undetectable levels of toxicants. However, this potential has been effectively managed in the past by sound agricultural practices. The agency believes that the use of host plants with a history of safe use, coupled with a continuation of sound agricultural practice, will minimize the potential for adverse public health consequences that may arise from increased levels of unknown or unexpected toxicants.

This guidance section provides a basis for determining whether new plant varieties are as safe and nutritious as their parental varieties. The assessment scheme focuses on characteristics of the new plant variety, based on characteristics of the host and donor species, the nature of the genetic change, the identity and function of newly introduced substances, and unexpected or unintended effects that accompany the genetic change. The assessment focuses on the following considerations:

1. Toxicants known to be characteristic of the host and donor species;
2. The potential that food allergens will be transferred from one food source to another;
3. The concentration and bioavailability of important nutrients for which a food crop is ordinarily consumed;
4. The safety and nutritional value of newly introduced proteins; and

5. The identity, composition and nutritional value of modified carbohydrates, or fats and oils.

The scientific concepts discussed in this guidance section are consistent with the concepts of substantial equivalence of new foods discussed in a document under development by the Group of National Experts on Safety in Biotechnology of the Organization for Economic Cooperation and Development (OECD). This guidance section is also consistent with the principles for food safety assessment discussed in the Report of a Joint Food and Agriculture Organization/World Health Organization Consultation (Ref. 6).

B. Flow Charts

The flow charts presented in sections VII.D. through VII.F. (Figures 2 through 6) outline a series of questions related to the safety and nutritional value of foods derived from the new plant variety, and are intended to provide general guidance to breeders and developers. FDA intends that these flow charts be used in conjunction with other information and practices that breeders and developers rely on to develop new plant varieties. These reflect the current state of scientific information and are not intended as regulatory requirements. As new information is developed, FDA anticipates that the flow charts may require modification.

The summary flow chart (Figure 1) presented in this section is a synopsis of FDA's safety assessment process. It describes, in a general way, the assessment for unexpected or unintended effects that may arise as a

result of the specific characteristics that are associated with the host plant and donor(s), as well as the assessment of the expected or intended effects. Because Figure 1 is a summary, it should not be relied upon for a safety assessment. The boxes labeled Figure 2, Figure 3, Figure 4, and Figures 5 and 6, respectively, refer to more specific flow charts that describe, in appropriate detail, the safety assessment from the perspective of the host, donor, and new substances that are introduced into the new plant variety.

Sections VII.D. through VII.F. address the scientific considerations pertaining to the host plant, donor(s), and new substances in more detail. Each section describes information that relates to the safety assessment, presents a flow chart that summarizes the safety assessment, discusses each of the questions in that flow chart, and describes the endpoints that are reached in that flow chart.

There are three endpoints in the flow charts in this notice: (1) No concerns, (2) new variety not acceptable, and (3) consult FDA. The notes to each individual flow chart discuss the interpretation of these endpoints in relation to that particular flow chart. In general, the interpretation of "no concerns" or "new variety not acceptable" is similar for each flow chart. The endpoint "consult FDA" means that producers may need to consult FDA on regulatory questions, such as whether a food additive petition or special labeling is needed, or on technical questions, such as appropriate testing protocols or specific scientific issues.

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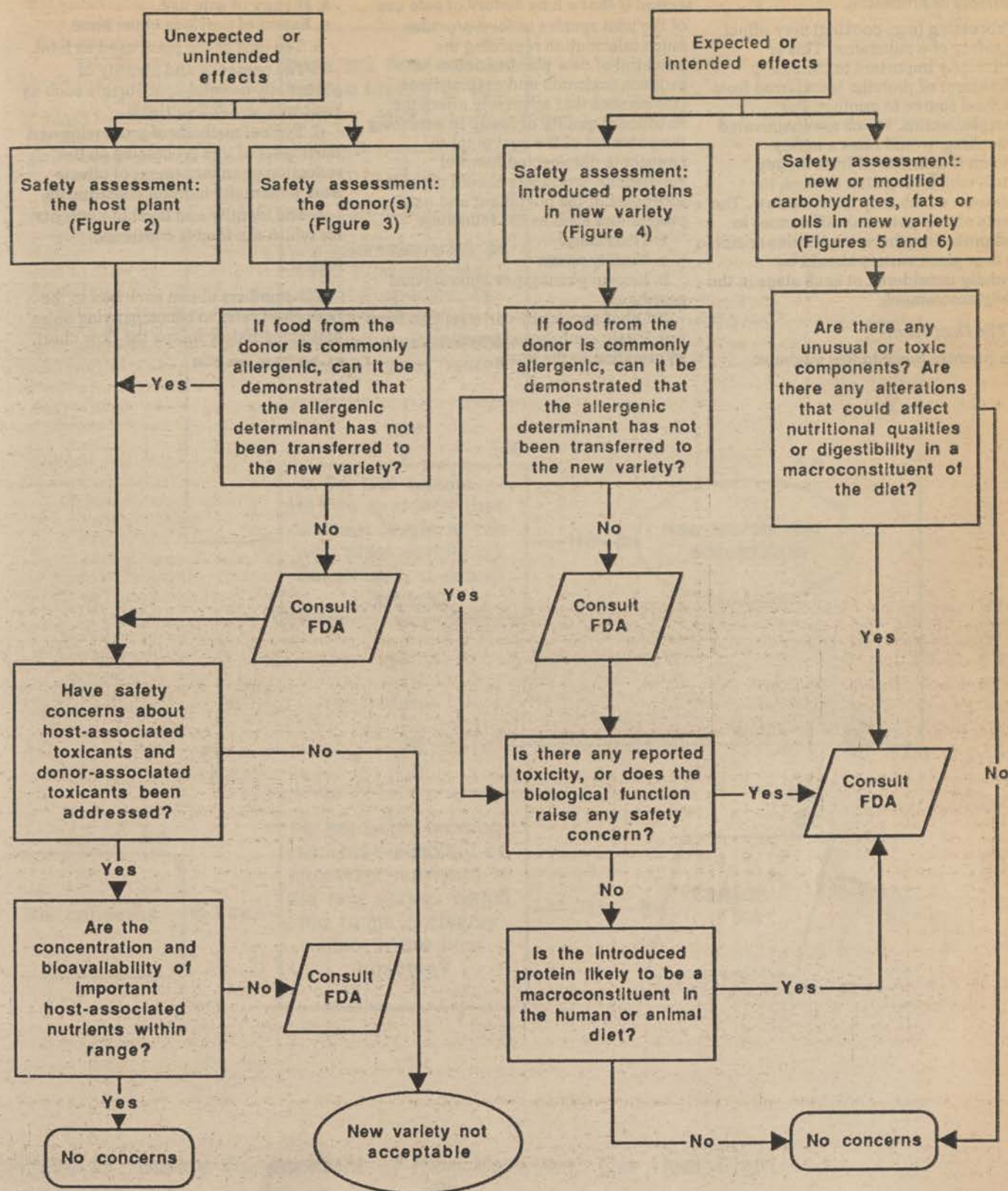


Figure 1. Safety Assessment of New Varieties: Summary

C. Effects of Processing

Processing (e.g., cooking) may affect the safety of a substance. This is particularly important in the safety assessment of proteins transferred from one food source to another. For example, lectins, which are inactivated by cooking, would raise a safety concern if transferred from kidney beans, which are eaten cooked, to tomatoes, which may be eaten raw. The effects of any potential differences in food processing between the donor and the new plant variety should be carefully considered at each stage in the safety assessment.

D. The Host Plant

A premise basic to this guidance

section is that a long history of safe use of the host species in food provides much information regarding the potential of new plant varieties to produce toxicants and antinutrients (substances that adversely affect the nutritional quality of food). In assessing the potential of the host plant to contribute unexpected harmful substances, producers should consider attributes of the host plant and its progenitors such as the following:

1. Taxonomy.
 - a. Variety name.
 - b. Known phenotypes and relevant genotypes.
2. Other species or varieties that have previously contributed genetic information to the host.

3. History of safe use.
 - a. Extent of previous experience.
 - b. The part of the plant used as food.
 - c. The presence and identity of potentially harmful constituents such as toxicants and antinutrients.
 - d. Typical methods of processing and the impact of this processing on the reduction or enhancement of effects from potentially harmful constituents.
4. The identity and level of nutrients for which the food is consumed.

Figure 2

The numbers above each box in the flow chart refer to accompanying notes that immediately follow the flow chart.

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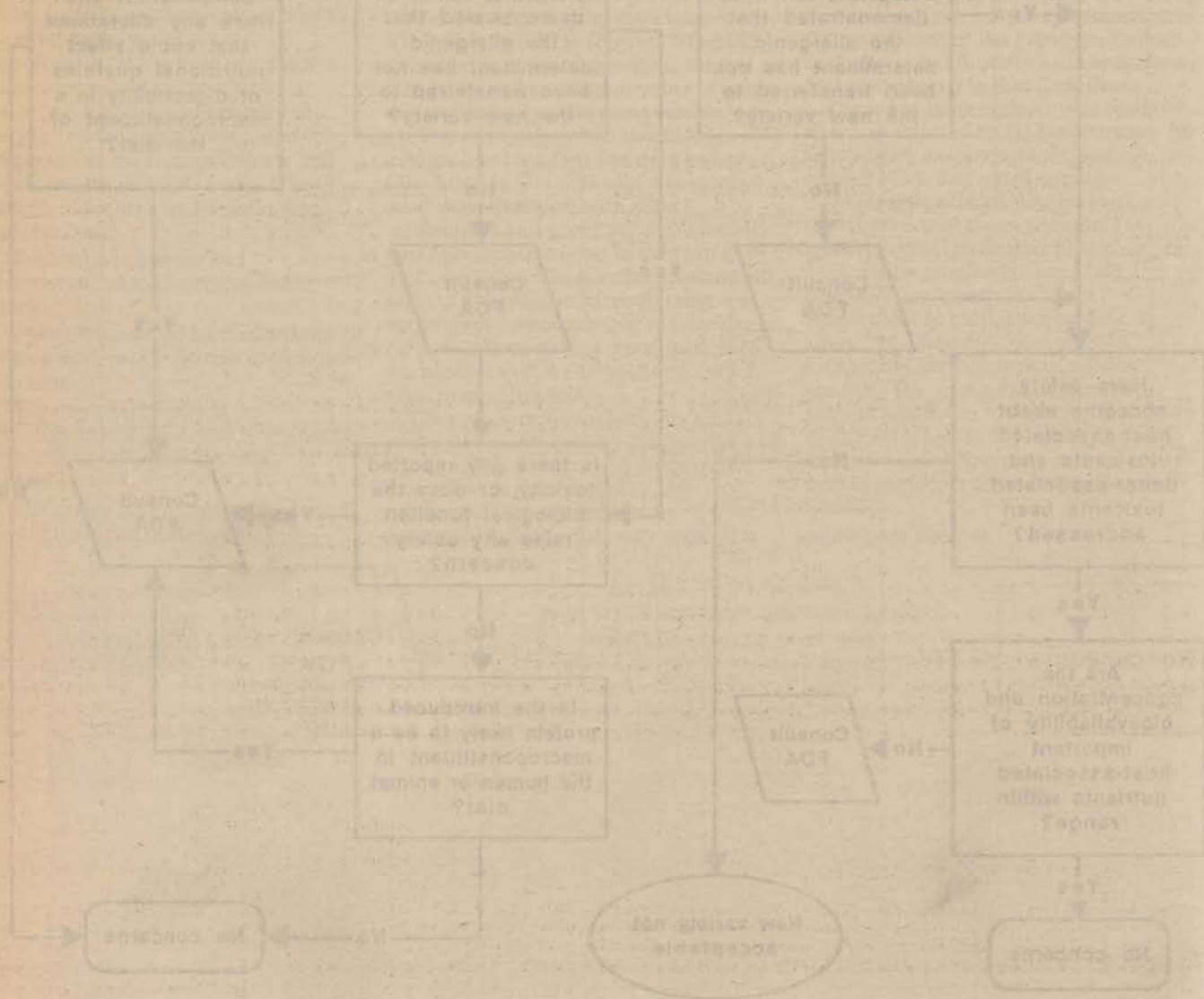


Figure 1. Safety Assessment of New Varieties Summary

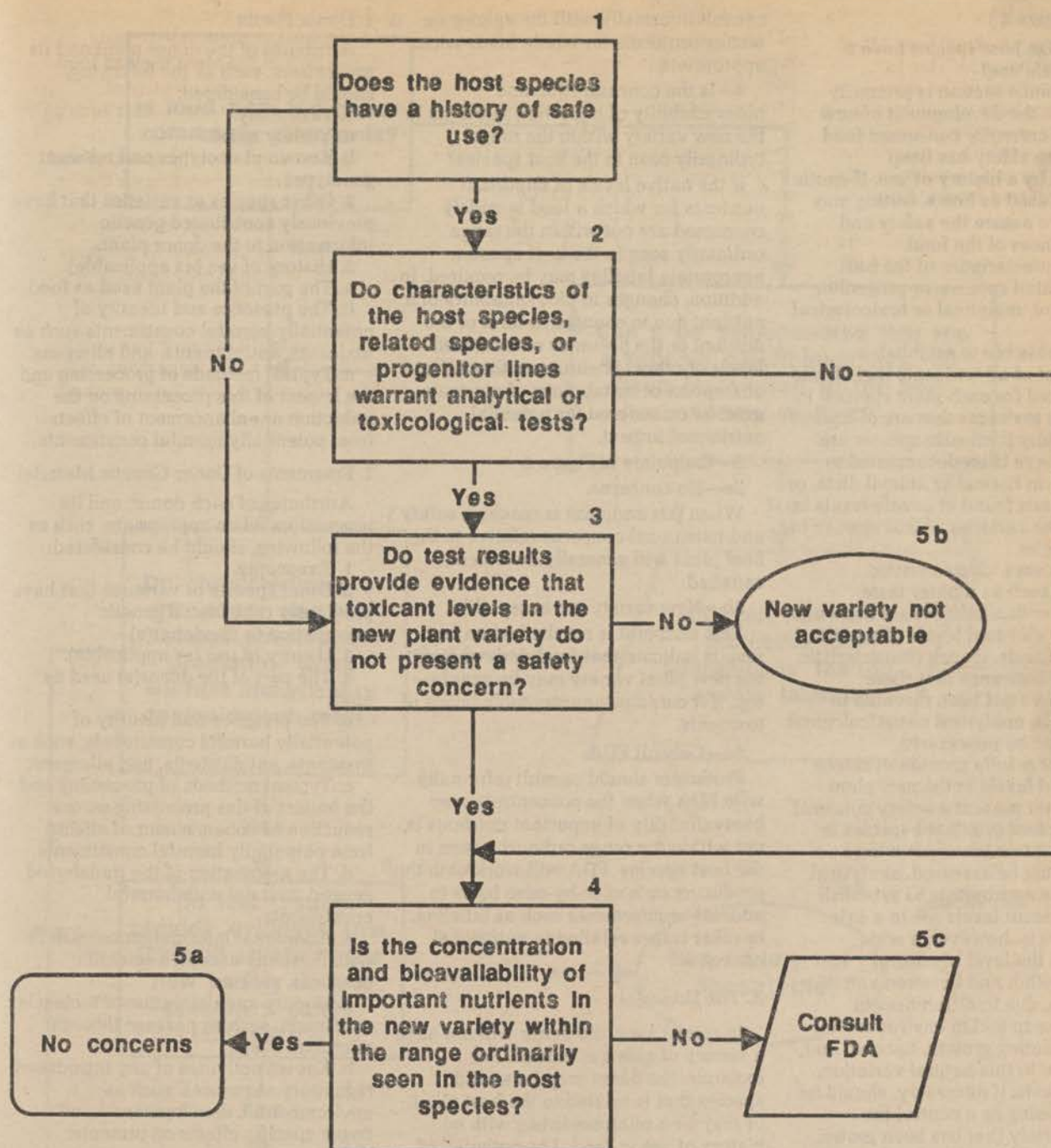


Figure 2. Safety Assessment of New Varieties: The Host Plant

Notes to Figure 2

1—Does the host species have a history of safe use?

This guidance section is primarily designed for the development of new varieties of currently consumed food plants whose safety has been established by a history of use. If exotic species are used as hosts, testing may be needed to assure the safety and wholesomeness of the food.

2—Do characteristics of the host species, related species, or progenitor lines warrant analytical or toxicological tests?

It is not possible to establish a complete list of all toxicants that should be considered for each plant species. In general, the toxicants that are of highest concern in any particular species are those that have been documented to cause harm in normal or animal diets, or that have been found at unsafe levels in some lines or varieties of that species or related species.

In many cases, characteristic properties (such as a bitter taste associated with alkaloids) are known to accompany elevated levels of specific natural toxicants. If such characteristic provide an assurance that these toxicants have not been elevated to unsafe levels, analytical or toxicological tests may not be necessary.

3—Do test results provide evidence that toxicant levels in the new plant variety do not present a safety concern?

If a host plant or related species is known to contain toxicants whose presence must be assessed, analytical tests may be appropriate to establish that the toxicant levels are in a safe range. There is, however, a wide variation in the level of natural toxicants within and between varieties of a species, due to differences in genetic makeup and in environmental conditions during growth, harvest, and storage. Due to this natural variation, analytical tests, if necessary, should be performed using as a control the parental variety that has been grown, harvested, and stored under the same conditions as the new plant variety.

In some cases, analytical methods alone may not be available, practical, or sufficient for all toxicants whose levels are needed to be assessed. In such situations, comparative toxicological tests on the new and parental plant varieties may provide assurance that the new variety is safe. FDA encourages producers of new plant varieties to

consult informally with the agency on testing protocols for whole foods when appropriate.

4—Is the concentration and bioavailability of important nutrients in the new variety within the range ordinarily seen in the host species?

If the native levels of important nutrients for which a food is widely consumed are not within the range ordinarily seen in the host species, appropriate labeling may be required. In addition, changes in bioavailability of a nutrient due to changes in form of the nutrient or the presence of increased levels of other constituents that affect absorption or metabolism of nutrients must be considered for potential nutritional impact.

5—Endpoints in Figure 2.

5a—No concerns.

When this endpoint is reached, safety and nutritional concerns relative to the host plant will generally have been satisfied.

5b—New variety not acceptable.

This endpoint is reached when test results indicate that food derived from the new plant variety may be unsafe—e.g., if it contains unacceptable levels of toxicants.

5c—Consult FDA.

Producers should consult informally with FDA when the concentration or bioavailability of important nutrients is not within the range ordinarily seen in the host species. FDA will work with the producers on a case-by-case basis to address requirements such as labeling, or other issues relating to nutritional concerns.

E. The Donor(s)

In some cases, the donor will not have a history of safe use in food. For example, the donor may be a wild species that is related to the host plant, or may be a microorganism with no history of use in food. The potential of the donor(s) to contribute undesirable characteristics to the new plant variety should be assessed. In assessing the potential of the donor to contribute unexpected harmful substances, producers should consider attributes of the donor plant, or of fragments of genetic material from one or multiple donors, to the extent that such information is available (see Figure 3).

1. Donor Plants

Attributes of the donor plant and its progenitors, such as the following, should be considered:

1. Taxonomy.
 - a. Variety name.
 - b. Known phenotypes and relevant genotypes.
2. Other species or varieties that have previously contributed genetic information to the donor plant.
3. History of use (as applicable).
 - a. The part of the plant used as food.
 - b. The presence and identity of potentially harmful constituents such as toxicants, antinutrients, and allergens.
 - c. Typical methods of processing and the impact of this processing on the reduction or enhancement of effects from potentially harmful constituents.

2. Fragments of Donor Genetic Material

Attributes of each donor, and its progenitors when appropriate, such as the following, should be considered:

1. Taxonomy.
2. Other species or varieties that have previously contributed genetic information to the donor(s).
3. History of use (as applicable).
 - a. The part of the donor(s) used as food.
 - b. The presence and identity of potentially harmful constituents, such as toxicants, antinutrients, and allergens.
 - c. Typical methods of processing and the impact of this processing on the reduction or enhancement of effects from potentially harmful constituents.
 - d. The association of the transferred genetic material with harmful constituents.
4. Additional information consistent with currently accepted scientific practices, such as:
 - a. History and derivation of molecular constructs, such as passage through microbial hosts.
 - b. Known activities of any introduced regulatory sequences, such as environmental, developmental and tissue-specific effects on promoter activity.
 - c. The presence of extraneous open reading frames, and the potential for transcription and expression of these additional open reading frames.

Figure 3

The numbers above each box in the flow chart refer to accompanying notes that immediately follow the flow chart.

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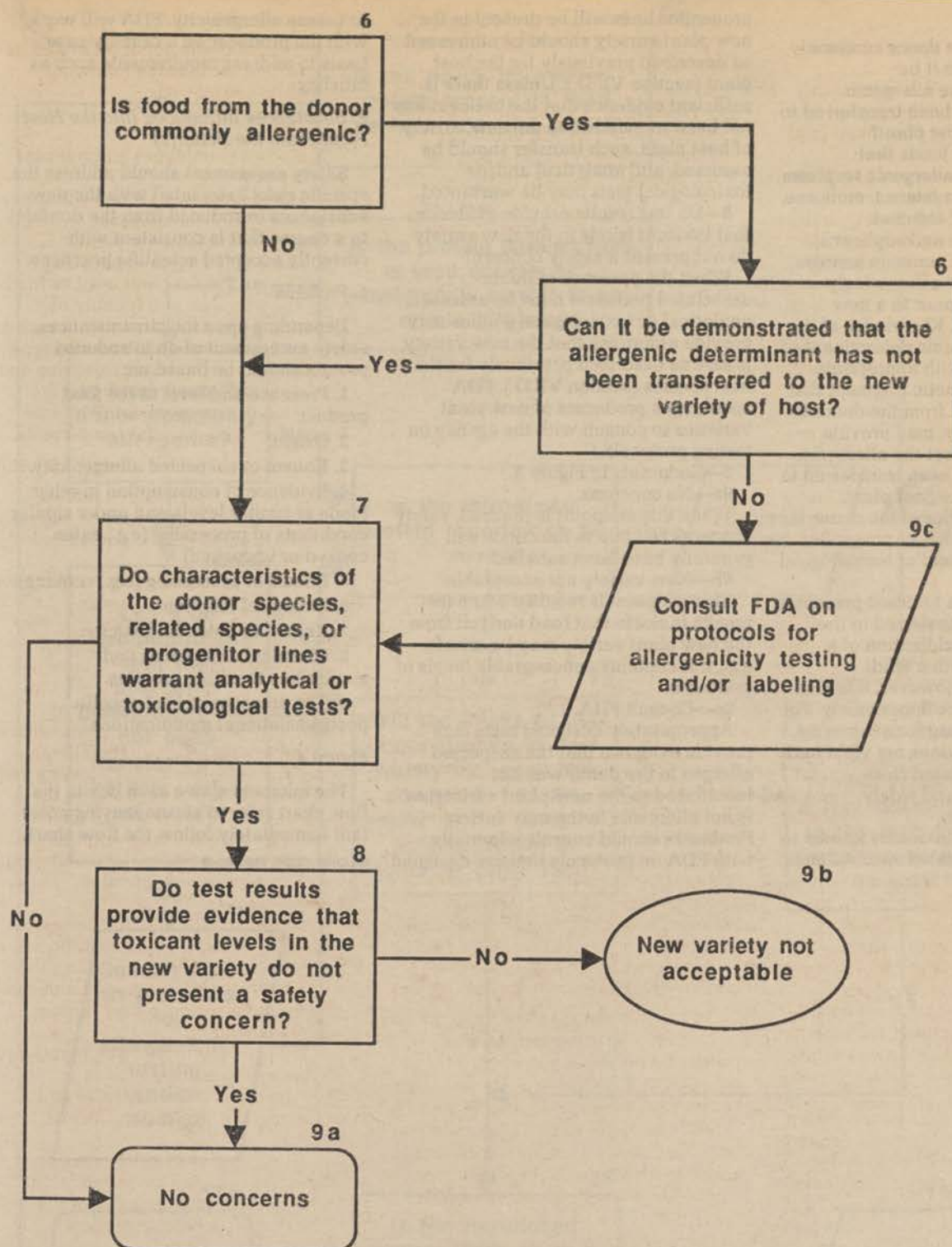


Figure 3. Safety Assessment of New Varieties: The Donor(s)

Notes to Figure 3

6—Is food from the donor commonly allergenic? If yes, can it be demonstrated that the allergenic determinant has not been transferred to the new variety of host plant?

Some examples of foods that commonly cause an allergenic response are milk, eggs, fish, crustacea, molluscs, tree nuts, wheat, and legumes (particularly peanuts and soybeans). Allergens from these common sources may be knowingly or unknowingly transferred from a donor to a new variety of host plant. Knowledge of the identity of the allergenic determinant of the donor, coupled with appropriate knowledge of the genetic fragment that has been transferred from the donor to the new plant variety, may provide sufficient evidence that the allergenic determinant has not been transferred to the new variety of the host plant.

7—Do characteristics of the donor species, related species, or progenitor lines warrant analytical or toxicological tests?

It is possible that a toxicant present in the donor may be transferred to the host, e.g., during hybridization of a cultivated variety with a wild, poisonous relative. However, it is also possible to use a toxic donor safely. For example, a gene coding for an enzyme that is not toxic and does not yield toxic products may be isolated from pathogenic bacteria and safely transferred to a plant.

The potential that toxicants known to exist in the donor, related species, or

progenitor lines will be present in the new plant variety should be addressed as described previously for the host plant (section VII.D.). Unless there is sufficient evidence that the toxicant has not been transferred to the new variety of host plant, such transfer should be assumed, and analytical and/or toxicological tests may be warranted.

8—Do test results provide evidence that toxicant levels in the new variety do not present a safety concern?

When the presence of donor-associated toxicants must be assessed, analytical or toxicological studies may provide assurance that the new variety is safe as described previously for the host species (section VII.D.). FDA encourages producers of new plant varieties to consult with the agency on testing protocols.

9—Endpoints in Figure 3.

9a—No concerns.

When this endpoint is reached, safety concerns relative to the donor will generally have been satisfied.

9b—New variety not acceptable.

This endpoint is reached when test results indicate that food derived from the new plant variety may be unsafe, e.g., if it contains unacceptable levels of toxicants.

9c—Consult FDA.

Appropriately designed tests may provide evidence that the suspected allergen in the donor was not transferred to the new plant variety, or is not allergenic in the new variety. Producers should consult informally with FDA on protocols that are designed

to assess allergenicity. FDA will work with the producer on a case-by-case basis to address requirements such as labeling.

F. Substances Introduced Into the Host Plant From the Donor(s)

Safety assessment should address the specific risks associated with the new substances introduced from the donor(s) to a degree that is consistent with currently accepted scientific practices.

1. Proteins

Depending upon the circumstances, safety assessment of an introduced protein should be based on:

1. Presence and level in the food product.
2. Origin.
3. Known or suspected allergenicity.
4. Evidence of consumption in other foods at similar levels and under similar conditions of processing (e.g., eaten cooked or uncooked).
5. Effects of processing (e.g., cooking).
6. Biological function.
7. Known or potential toxicity.
8. Chemical differences and similarities to edible proteins.
9. The presence of host-specific posttranslational modifications.

Figure 4

The numbers above each box in the flow chart refer to accompanying notes that immediately follow the flow chart.

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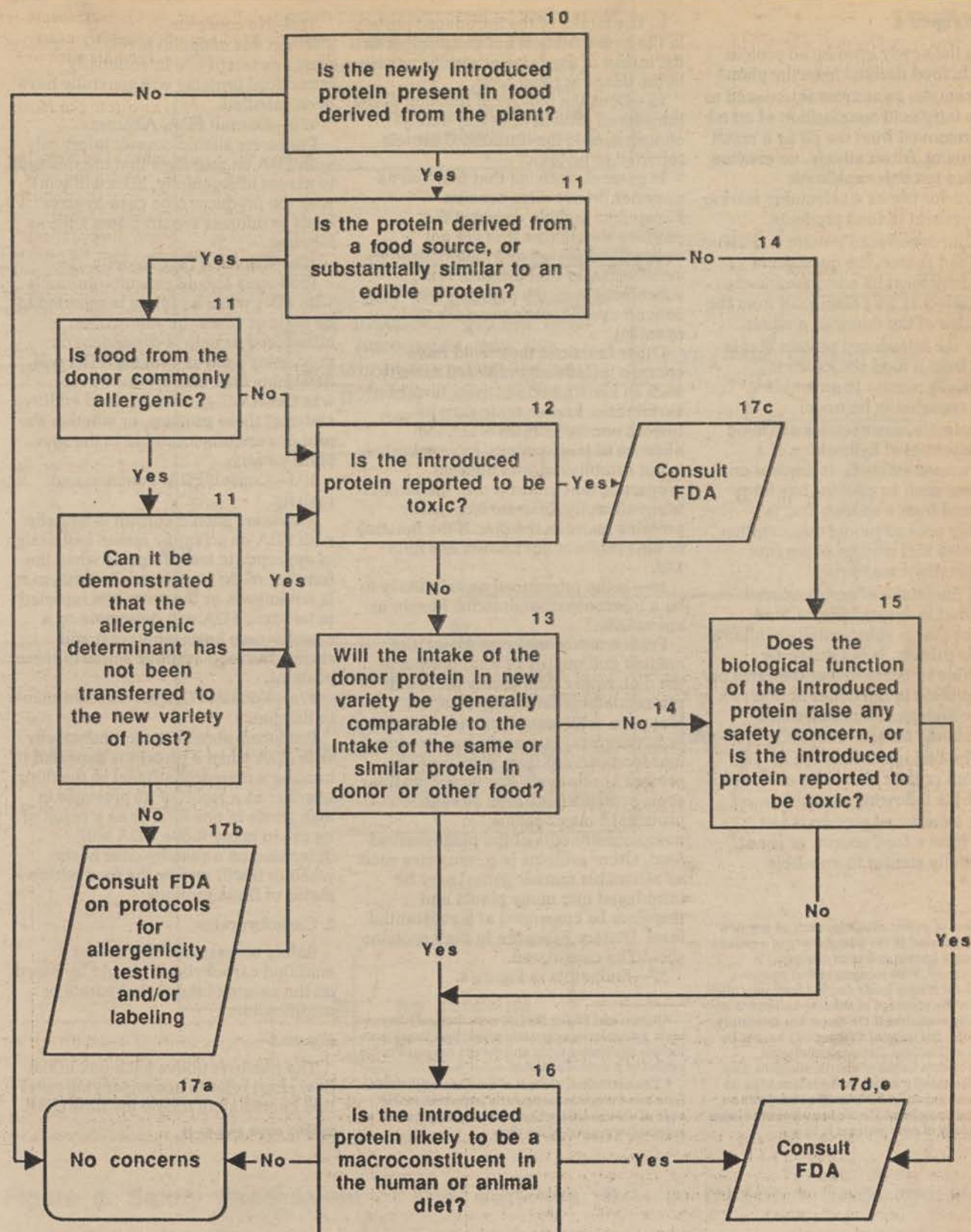


Figure 4. Safety Assessment of New Varieties: Proteins Introduced from Donor(s)

Notes to Figure 4

10—Is the newly introduced protein present in food derived from the plant?

For example, an enzyme introduced to alter the fatty acid composition of an oil may be removed from the oil as a result of processing. Alternatively, an enzyme introduced to confer antibiotic resistance for use as a selectable marker may be present in food products.

11—If an introduced protein is derived from a food source, the question of allergenicity must be addressed in the same fashion as was discussed from the perspective of the donor as a whole.

12—Is the introduced protein that is derived from a food source, or is substantially similar to an edible protein, reported to be toxic?

For example, some lectins are toxic unless inactivated by cooking. If a protein whose safety is dependent on processing such as cooking has been transferred from a species that is commonly cooked before consumption to a species that may be eaten raw, safety questions may arise.

13—If the intake of an introduced protein that is derived from a food source, or that is substantially similar to an edible protein, is not generally comparable to the intake of the same or similar protein in the donor or other food, the biological function of the protein should be assessed.

14—The biological function of the introduced protein should be assessed if either of the following occur:

a. The introduced protein is not derived from a food source, or is not substantially similar to an edible protein;⁶

⁶ The issue of potential allergenicity of any new protein (as opposed to the allergenicity of a protein derived from a known source of allergens) is frequently raised. FDA recognizes that routine procedures for testing foods derived from new plant varieties for the presence of unknown allergens are not currently available. If the donor has no history of use in food, the issue of allergenicity cannot be addressed at this time. Comparison of gene sequences to data banks of known allergens may become increasingly useful as the information on such proteins expands. FDA invites comments on methods that may be available to address the issue of allergenicity of new proteins in foods.

b. The intake of the introduced protein in the new variety is not comparable to the intake of the same or similar protein in the donor or other food.

15—Does the biological function of the introduced protein raise any safety concerns, or is the introduced protein reported to be toxic?

In general, proteins that function as enzymes do not raise concern.⁷ Exceptions include enzymes that produce substances that are not ordinarily digested and metabolized by vertebrates, or that produce toxic substances (e.g., the enzymes that convert cyanogenic glycosides to cyanide).

Other functions that could raise concern include any reported toxicity, such as known toxic activity toward vertebrates, known toxic activity toward nonvertebrates when the absence of toxic activity to vertebrates is not established, and unusual properties that indicate that the protein is significantly different from other proteins found in the diet. If the function of the protein is not known, see note 17d.

16—Is the introduced protein likely to be a macroconstituent in the human or animal diet?

From a nutritional standpoint, the amount and quality of total protein in the diet, rather than of any particular protein, is of greatest significance. However, while most individual proteins (e.g., enzymes) that might be introduced into food derived from plants will be present at relatively low concentrations, some proteins (e.g., seed storage proteins)⁸ may become macroconstituents of the plant-derived food. Other proteins (e.g., enzymes used as selectable marker genes) may be introduced into many plants and therefore be consumed at a substantial level. Dietary exposure to such proteins should be considered.

17—Endpoints in Figure 4.

⁷ Pariza and Foster (Ref. 7) note that very few toxic agents have enzymatic properties. Exceptions include diphtheria toxin and certain enzymes in the venom of poisonous snakes.

⁸ The nutritional content of seed storage proteins from some crops is particularly important in the case of animal feed, where one crop may furnish a substantial portion of the diet.

17a—No concerns.

When this endpoint is reached, safety concerns relative to intentionally introduced proteins will generally have been satisfied.

17b—Consult FDA: Allergens.

Producers should consult informally with FDA on protocols that are designed to assess allergenicity. FDA will work with the producer on a case-by-case basis to address requirements such as labeling.

17c—Consult FDA: Toxicity.

Producers should consult informally with FDA when a protein is reported to be toxic or when the safety of an introduced protein is dependent on processing such as cooking. FDA will determine on a case-by-case basis whether it will review the food additive status of these proteins, or whether the proteins are unacceptable in the new plant variety.

17d—Consult FDA: Function and toxicity.

Producers should consult informally with FDA on scientific issues and design of appropriate test protocols when the function of the protein raises concern or is not known, or the protein is reported to be toxic. FDA will determine on a case-by-case basis whether it will review the food additive status of these proteins.

17e—Consult FDA: Macroconstituents in the diet.

Producers should consult informally with FDA when a protein is expected to become a macroconstituent of the diet, whether as a result of its presence in high levels in one food or as a result of its use in many foods. FDA will determine on a case-by-case basis whether it will review the food additive status of these proteins.

2. Carbohydrates

Safety assessment of a new or modified carbohydrate should be based on the nature of the carbohydrate or modification.

Figure 5

The numbers above each box in the flow chart refer to accompanying notes that immediately follow the flow chart.

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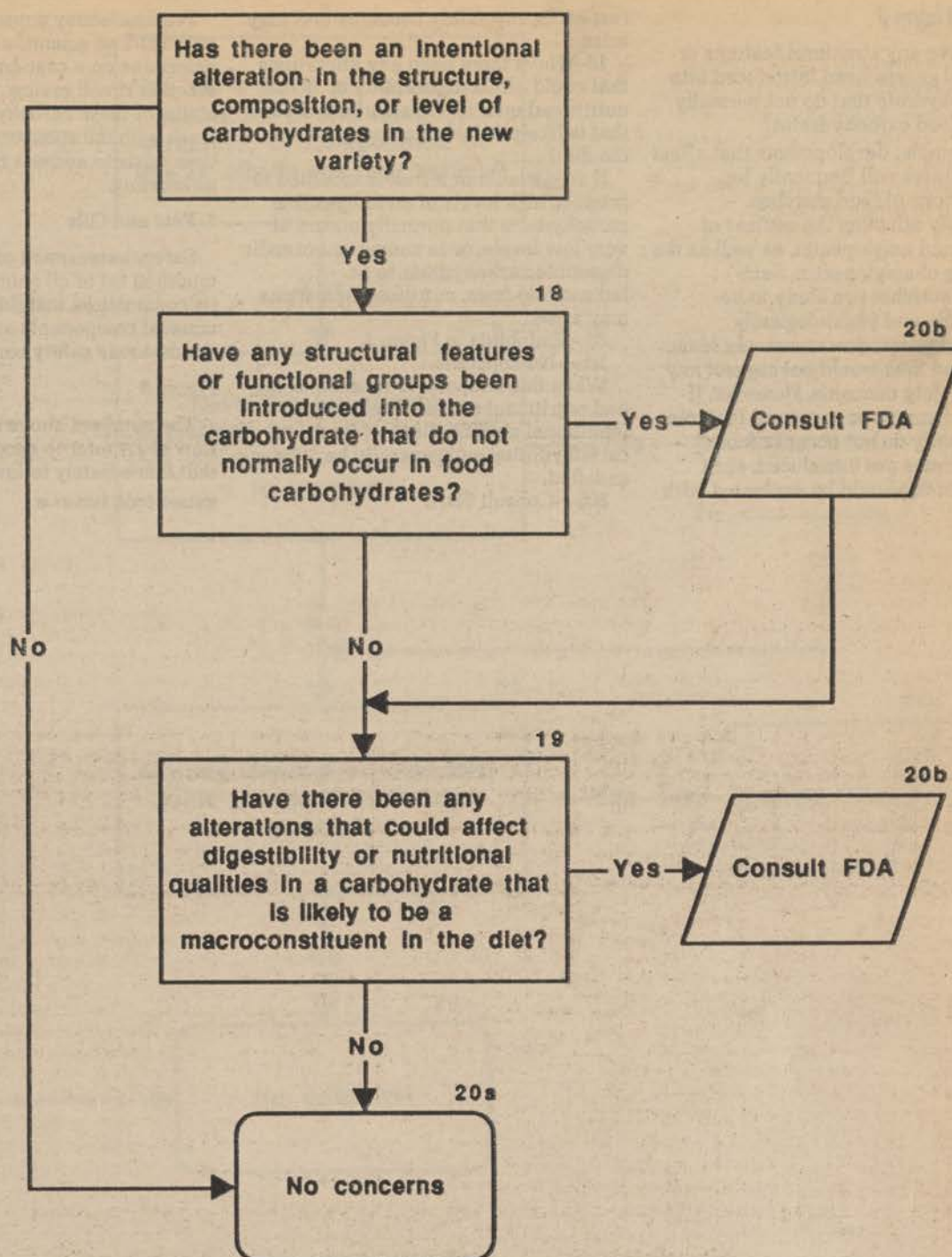


Figure 5. Safety Assessment of New Varieties: New or Modified Carbohydrates

Notes to Figure 5

18—Have any structural features or functional groups been introduced into the carbohydrate that do not normally occur in food carbohydrates?

For example, developments that affect carbohydrates will frequently be modifications of food starches, presumably affecting the content of amylose and amylopectin, as well as the branching of amylopectin. Such modified starches are likely to be functionally and physiologically equivalent to starches commonly found in food and thus would not suggest any specific safety concerns. However, if functional groups or structural features that normally do not occur in food carbohydrates are introduced, such modifications should be evaluated with

respect to any safety concerns that may arise.

19—Have there been any alterations that could affect digestibility or nutritional qualities in a carbohydrate that is likely to be a macroconstituent in the diet?

If a vegetable or a fruit is modified to produce high levels of an indigestible carbohydrate that normally occurs at very low levels, or to convert a normally digestible carbohydrate to an indigestible form, nutritional questions may arise.

20—Endpoints in Figure 5.

20a—No concerns.

When this endpoint is reached, safety and nutritional concerns relative to intentional modifications of food carbohydrates will generally have been satisfied.

20b—Consult FDA.

Producers may consult informally with FDA on scientific issues. FDA will determine on a case-by-case basis whether it will review the food additive status of these carbohydrates, and will work with the sponsor on a case-by-case basis to address requirements such as labeling.

3. Fats and Oils

Safety assessment of a new or modified fat or oil should be based on its composition and the presence of any unusual components at levels that would cause safety concern.

Figure 6

The numbers above each box in the flow chart refer to accompanying notes that immediately follow the flow chart.

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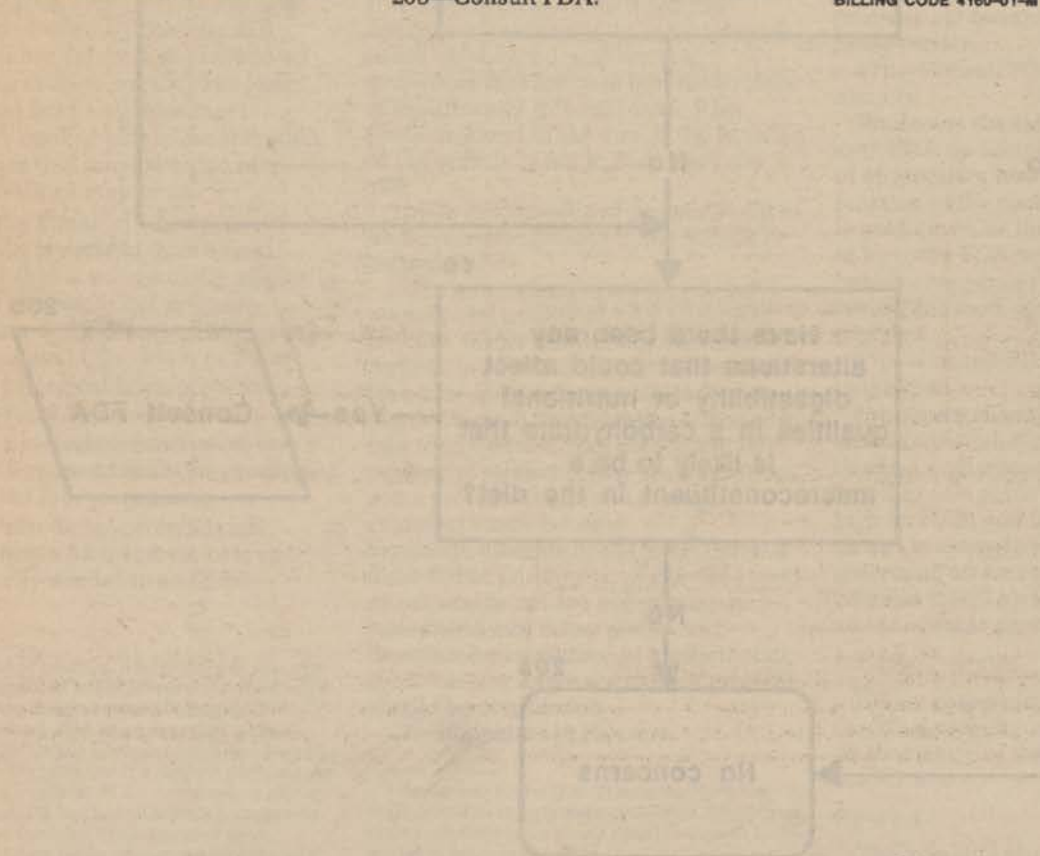


Figure 5. Safety Assessment of New or Modified Carbohydrates

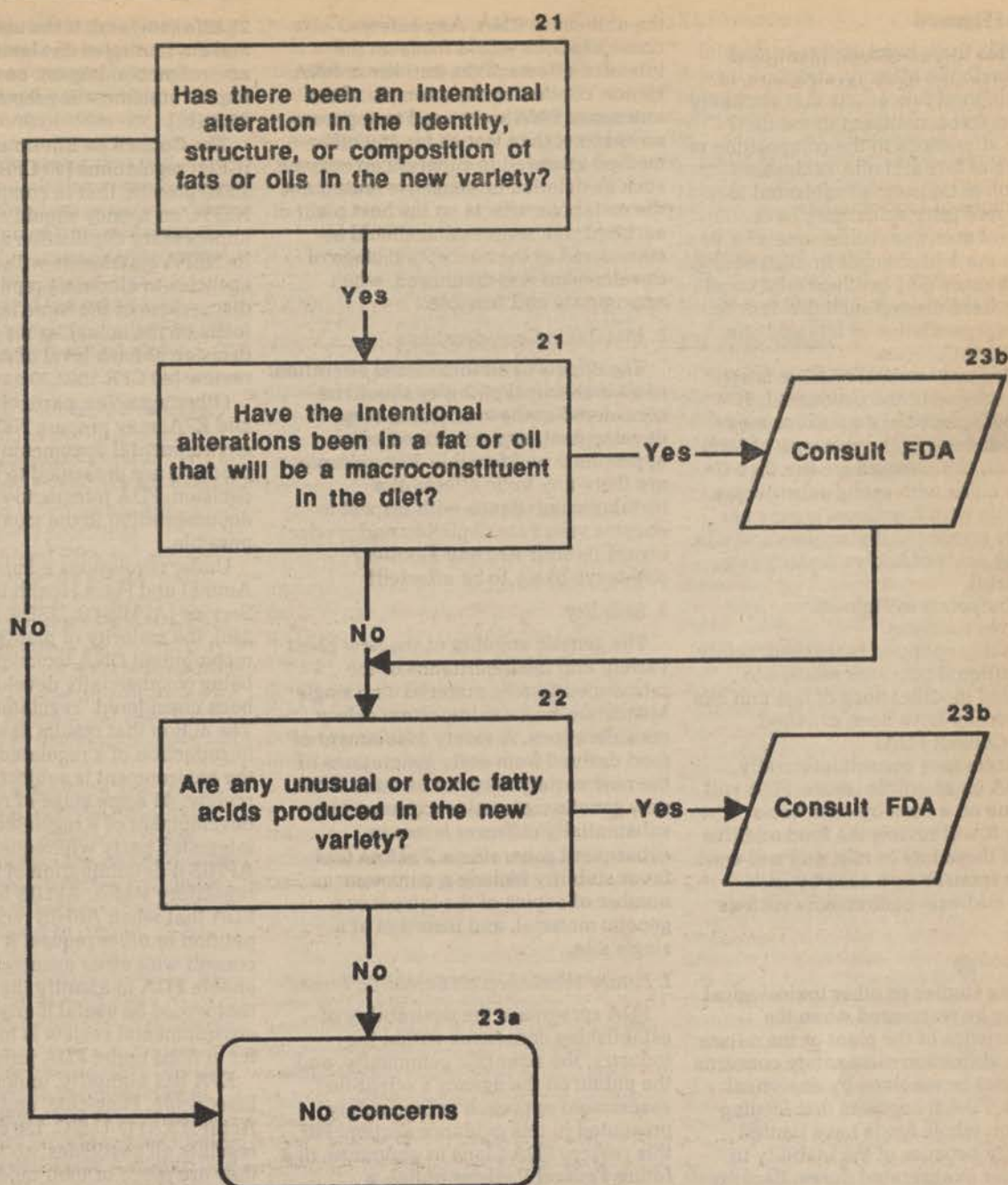


Figure 6. Safety Assessment of New Varieties: New or Modified Fats or Oils

Notes to Figure 6

21—Has there been an intentional alteration in the identity, structure, or composition of fats or oils that are likely to be a macroconstituent in the diet?

Some alterations in the composition or structure of fats and oils, such as an alteration in the ratio of saturated to unsaturated fatty acids, may have significant nutritional consequences, or result in marked changes in digestibility. Other changes may produce a fat or oil that has been altered such that it is no longer representative of fats and oils from the host species.

22—Are any unusual or toxic fatty acids produced in the new variety?

For example, safety questions may arise as a result of the presence of fatty acids with chain length greater than C-22, fatty acids with cyclic substituents, fatty acids with functional groups not normally present in dietary fats and oils, and fatty acids of known toxicity (e.g., erucic acid).

23—Endpoints in Figure 6.

23a—No concerns.

When this endpoint is reached, safety and nutritional concerns relative to intentional modifications of fats and oils will generally have been satisfied.

23b—Consult FDA.

Producers may consult informally with FDA on scientific issues. FDA will determine on a case-by-case basis whether it will review the food additive status of these fats or oils, and will work with the sponsor on a case-by-case basis to address requirements such as labeling.

G. Toxicology

Feeding studies or other toxicological tests may be warranted when the characteristics of the plant or the nature of the modification raise safety concerns that cannot be resolved by analytical methods. FDA recognizes that feeding studies on whole foods have limited sensitivity because of the inability to administer exaggerated doses. Because of the difficulty of designing meaningful studies, FDA encourages companies to consult informally with the agency about test protocols.

H. Other Information

The information described below is not directly addressed in the flow charts but should be considered during the development of new plant varieties.

1. Nucleic Acids

Introduced nucleic acids, in and of themselves, do not raise safety concerns. Thus, for example, the introduction of a gene encoding an anti-sense ribonucleic acid (RNA) would not raise concerns about either the gene or

the anti-sense RNA. Any safety considerations would focus on the intended effects of the anti-sense RNA. Hence, continuing the example, if the anti-sense RNA were used to suppress an enzyme, then just as for any other method intended to suppress an enzyme, such as deletion or nonsense mutations, the metabolic effects on the host plant of such enzyme suppression should be considered at the conceptual stage of development and monitored, when appropriate and feasible.

2. Metabolic Considerations

The effects of an intentional alteration of a biochemical pathway should be considered at the conceptual stage of development, and monitored when appropriate and feasible. For example, are there any toxic effects of a metabolic imbalance with respect to enzyme substrate depletion and product accumulation? Are any auxiliary pathways likely to be affected?

3. Stability

The genetic stability of the new plant variety and the inheritance of the introduced genetic material as a single Mendelian trait are important safety considerations. A safety assessment of food derived from early generations of the new variety may not be valid if the new genetic material is expressed at substantially different levels in subsequent generations. Factors that favor stability include a minimum number of copies of the introduced genetic material, and insertion at a single site.

I. Future Workshop on Scientific Issues

FDA recognizes the desirability of establishing consensus within the industry, the scientific community, and the public on the agency's scientific assessment approach to food safety presented in this guidance section. For this reason, FDA plans to announce, in a future **Federal Register** notice, a workshop to discuss specific scientific issues. The notice announcing the workshop will include a description of the scientific issues to be discussed. FDA invites comment on topics that might be addressed at such a workshop.

VIII. Environmental Consideration: Applicability of NEPA

NEPA requires FDA to consider in its decisionmaking the environmental impact of its major Federal actions that significantly affect the quality of the human environment. The promulgation of a food additive regulation is an agency action that ordinarily triggers the NEPA requirement for development of an environmental assessment (21 CFR

25.22(a)(10)) and, if the agency does not make a finding of no significant environmental impact, an environmental impact statement is prepared (21 CFR 25.21(b)).

The Council on Environmental Quality (CEQ) regulations (40 CFR 1500 through 1508) provide that in complying with NEPA, an agency should avoid unnecessary duplication and should tier its NEPA statements with those of other agencies to eliminate repetitive discussions of the same issues and to focus on the actual issues ripe for decision at each level of environmental review (40 CFR 1502.20 and 1508.28).

Other agencies, particularly USDA and EPA, may prepare NEPA and other environmental documentation before products are presented to FDA for a decision. FDA intends to rely on such documentation to the maximum extent possible.

Under regulations administered by the Animal and Plant Health Inspection Service (APHIS) in USDA (7 CFR part 340), the majority of plants developed by recombinant DNA techniques that are being commercially developed have been considered "regulated articles." The action that results in a permit for introduction of a regulated article into the environment is subject to NEPA review. At some stage of research and development of a regulated article, an interested party will request from APHIS a determination of the article's regulatory status. APHIS has informed FDA that when APHIS receives a petition or other request it intends to consult with other agencies. This should enable FDA to identify the type of data that would be useful if any subsequent environmental review is to be prepared for actions under FDA jurisdiction.

EPA has authority, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136 *et seq.*), to regulate all pesticides, no matter how they are made or their mode of action. Under the act, EPA has authority to regulate pesticide residues in foods. Any relevant review that EPA conducts under FIFRA, the act, or any other of its statutes, involving an assessment of potential effects on human health and the environment will be available to FDA.

FDA intends to work closely with USDA and EPA to minimize duplication of environmental reviews. The agency will, to the extent possible, invoke the tiering provisions in the CEQ regulations and, in FDA's environmental assessments, rely on APHIS NEPA reviews and other such documents, as well as relevant environmental documents considered by EPA. Further,

FDA will provide informal guidance on environmental issues to assist individuals who are preparing food additive petitions to meet FDA's requirements for environmental assessments.

FDA does not consider that the activities it may undertake with respect to foods from new plant varieties other than promulgation of food additive regulations, such as consultation with producers on safety issues and providing advice on the regulatory status of foods from new plant varieties, will constitute agency action under NEPA.

IX. Coordination With EPA: Pesticide Considerations

Questions have been raised concerning whether FDA or EPA would have jurisdiction when plants are modified to express pesticidal substances. FDA and EPA are agreed that substances that are pesticides as defined by FIFRA (7 U.S.C. section 136(u)), are subject to EPA's regulatory authority. The agencies also agree that FDA's authority under the act extends to any nonpesticide substance that may be introduced into a new plant variety and that is expected to become a component of food.

EPA and FDA are aware that there may be cases in which the jurisdictional responsibility for a substance is not clear. Because pesticides, as defined by FIFRA, are subject to EPA's jurisdiction, the agencies encourage producers who have such questions to contact EPA. FDA and EPA intend to consult closely on such jurisdictional questions, as well as on scientific matters where consultation will be helpful in resolving safety questions.

The agencies are also aware that, in some circumstances, evaluation of a particular substance introduced into a plant may require the expertise of both EPA and FDA. Both agencies agree that EPA will address under its regulatory jurisdiction the food safety issues associated with the pesticide, including marker genes used to confirm the

presence of the pesticidal gene. Any food safety questions beyond those associated with the pesticide, such as those raised by unexpected or unintended compositional changes, are under FDA's jurisdiction and should be addressed under the policy set forth elsewhere in this notice.

Based upon the agencies' current knowledge, examples of substances that fall under FDA's authority include: (1) Substances intended to alter the nutritional composition of the food (e.g., amino acids or carbohydrates); (2) substances intended to enhance the plant's resistance to chemical herbicides (e.g., bromoxynil, glyphosate, and sulfonylurea); and (3) substances intended to alter the flavor or the texture of the food.

Similarly, based upon the agencies' current knowledge of new plant varieties being developed using the new technologies of gene transfer, EPA is in the process of evaluating how or if it will exert its oversight for the following examples subject to its jurisdiction under FIFRA and therefore not under FDA's jurisdiction: (1) Substances that are intended to kill insects (e.g., *Bacillus thuringiensis* delta-endotoxin);

(2) Substances intended to protect plants from viral, fungal, or bacterial infection (e.g., cecropin); and (3) substances that are plant regulators and thus "pesticides" under FIFRA.

X. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This action is intended to provide guidance to developers by describing the scientific considerations for the safe development of foods derived from new plant varieties.

XI. Comments

Interested persons may, on or before August 27, 1992, submit to the Dockets Management Branch (address above) written comments regarding this notice. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

XII. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Anonymous, "Biotechnologies and Food: Assuring the Safety of Foods Produced by Genetic Modification," International Food Biotechnology Council, Regulatory Toxicology and Pharmacology, Vol. 12, No. 3, Part 2 of 2 Parts, New York, December 1990.
2. Letter, Hopkins, D. D., R. J. Goldberg, and S. A. Hirsch to Dr. David Kessler, September 30, 1991, and enclosure, "A Mutable Feast: Assuring Food Safety in the Era of Genetic Engineering."
3. Letter, Richard D. Godown to James H. Maryanski, January 3, 1992; Letter, W. Douglas Crabb to Fred R. Shank, January 24, 1992.
4. Comments to Docket No. 90A-0416, Federal Register, May 1, 1991 (56 FR 20004).
5. Dale, E. C. and D. W. Ow, "Gene Transfer with Subsequent Removal of the Selection Gene from the Host Genome," Proceedings of the National Academy of Sciences USA, 88:10558-10562, 1991.
6. Anonymous, "Strategies for Assessing the Safety of Foods Produced by Biotechnology," World Health Organization, Geneva, 1991.
7. Pariza, M. W. and E. M. Foster, "Determining the Safety of Enzymes Used in Food Processing," Journal of Food Protection, 46:453-468, 1983.

Dated: April 2, 1992.

David A. Kessler,
Commissioner of Food and Drugs.
[FR Doc. 92-12660 Filed 5-26-92; 3:57 pm]
BILLING CODE 4160-01-M

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Federal Register

Friday
May 29, 1992

Part X

Department of Housing and Urban Development

**HOPE for Elderly Independence Program
for Fiscal Year 1992; Notice of Funding
Availability**

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N-92-3410; FR 3031-N-01]

Notice of Funding Availability (NOFA) for the HOPE for Elderly Independence Program for Fiscal Year (FY) 1992

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of Funding Availability for Fiscal Year (FY) 1992.

SUMMARY: This notice (NOFA) announces the availability of supportive services and Section 8 rental voucher funding for a national competition for FY 1992 for the HOPE for Elderly Independence Demonstration Program (Elderly Independence demonstration) to be administered by public housing agencies (PHAs) and Indian housing authorities (IHAs). The purpose of the Elderly Independence demonstration is to test the effectiveness of combining rental vouchers with supportive services to assist frail elderly people living in the general community who are not receiving rental subsidies and who currently require this combined assistance to remain living independently and to avoid premature or unnecessary institutionalization. The NOFA contains information concerning the deadline for filing applications; eligibility of applicants; available amounts; selection criteria; and the application and selection process.

DATES: The due date for submission of applications in response to this NOFA is July 13, 1992. Application kits containing the application forms (Standards Forms 424 and 424A) may be obtained from the local HUD Field Office/Indian Program Office. Applications must be physically received in the local HUD Field Office/Indian Programs Office on the due date by 3:30 p.m. local time.

The above-stated application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is not received on or before the application deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

FOR FURTHER INFORMATION CONTACT: Gerald J. Benoit, Director, Rental Assistance Division, Office of Public

and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000, telephone number (202) 708-0477. Hearing or speech impaired individuals may call HUD's TDD number (202) 708-4594. (These telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980. OMB has approved the section 8 information collection requirements under the assigned control number 2577-0123; OMB has approved the supportive services information collection requirements under the assigned control number 2577-0154.

I. Purpose and Substantive Description

(A) Authority

The Elderly Independence demonstration is authorized by section 803 of the National Affordable Housing Act (Pub. L. 101-625, approved November 28, 1990) (NAHA). The regulations governing the rental voucher program are published at 24 CFR part 887. The Guidelines for the Elderly Independence demonstration were published in the *Federal Register* on February 4, 1991 at 56 FR 4506. However, the sections of the Guidelines which concern application submission and processing requirements are being amended by separate notice published elsewhere in today's edition of the *Federal Register*. This NOFA incorporates these newly amended application submission and processing requirements.

(B) Background

The Elderly Independence demonstration is a five-year demonstration program, the purpose of which is to test the effectiveness of combining tenant-based rental vouchers with supportive services to assist frail elderly people living in the general community who are not receiving rental subsidies and who currently require this combined assistance to continue living independently and avoid premature or unnecessary institutionalization.

This NOFA announces the availability of funds for the Elderly Independence demonstration supportive services and Section 8 rental vouchers, and invites applications from eligible PHAs/IHAs.

This NOFA invites interested PHAs/IHAs to submit applications for funds for supportive service grants, provides

instructions to PHAs/IHAs governing the submission of supportive service grant applications, and describes procedures for rating, ranking, and approving PHA/IHA supportive service grant applications.

PHAs/IHAs selected through the Elderly Independence supportive services grant national competition will be invited to submit an application for up to 150 Section 8 rental vouchers. (The minimum number of rental vouchers for which a PHA/IHA may apply is 25.) While the statute authorized both rental vouchers and rental certificates, the Appropriations Act only provides funding for rental vouchers and for this reason only rental vouchers will be made available for the Elderly Independence demonstration this fiscal year.

The application submission and processing requirements contained in this NOFA are different from those set forth in the Elderly Independence Program Guidelines, published in the *Federal Register* on February 4, 1991 (56 FR 4506). Sections VI, VII, XV, XVI, and XVII of the Elderly Independence Guidelines, which contain the application submission and processing requirements, are being revised by separate notice published elsewhere in today's edition of the *Federal Register*. As noted in that document, the amendments are made for the purpose of ensuring that the application submission and processing requirements are in conformance with current statutory and regulatory requirements, and consistent with the requirements of other Section 8 programs. Accordingly, this NOFA incorporates the newly amended application submission and processing requirements.

In order to ensure that applicants submit the required information in the application, the Department encourages all applicants to complete the Initial Screening Checklist provided in section III(D) of this NOFA. This checklist specifies the required information which must be submitted in the PHA's/IHA's application.

(C) Allocation Amounts

(1) The Department will make available up to \$34,158,147 of the budget authority approved in the HUD-Independent Agencies Appropriations Act of 1992 (Pub. L. 102-139, approved October 28, 1991) (the Act) which will support an estimated 1,447 rental vouchers.

(2) The Act provided \$10,000,000 for supportive services grants, which will support an approximate \$6,700 per

person federal share of the supportive services costs.

These funds are available for a national competition, in which the PHAs/IHAs selected to receive supportive services grants will also receive funding for Section 8 rental vouchers. An Annual Contributions Contract (ACC) for the Section 8 funding will be executed by the PHA/IHA and HUD after HUD approval of the PHA's/IHA's Section 8 application and PHA/IHA and HUD execution of the supportive services grant agreement.

(D) Eligibility

Eligible applicants for the Elderly Independence demonstration supportive services grant and Elderly Independence demonstration rental vouchers are public housing agencies (PHAs), including Indian housing authorities (IHAs). A PHA is the entity defined in section 3(b)(6) of the United States Housing Act of 1937 (1937 Act), including Indian housing authorities as defined in section 3(b)(11) of the 1937 Act.

Eligible applicant may apply for a maximum of 10 percent (\$1,000,000) of the supportive services funds and a maximum of 150 rental vouchers. PHAs/IHAs must apply for at least 25 rental vouchers.

(E) Selection Process

After the Field Office or Office of Indian Programs has screened PHA/IHA supportive services applications and disapproved any applications unacceptable for further processing (see section IV of this NOFA), the Field Office or Office of Indian Programs will review and rate all approvable applications, utilizing the selection criteria and point assignment listed below. The three highest scoring applications and rating sheets in each Field Office and Office of Indian Programs will be sent to the Regional Office. The Office of Indian Programs will send each application to the respective Regional Office that has jurisdiction over the State in which the Indian Housing Authority is located.

The three highest scoring applications in each region will be eligible for final selection by Headquarters. In order to determine the final top three applications in rank order, the Regional Office of Public Housing will review and re-rate these applications, utilizing the same selection criteria and point assignment listed below.

The Regional Office of Public Housing shall send to HUD Headquarters the application packages, Field Office and/or Office of Indian Programs rating sheets, the Regional Office rating sheets

and the final ranking of the top three applicants in the region. In order to best determine the effectiveness of the Elderly Independence demonstration on a national scale, the top-ranked application in each region will be awarded funding under the Elderly Independence demonstration. Headquarters will fund the next highest rated applications (based on the Regional Office rating score) until the remaining supportive service funds are insufficient to fund the next highest rated application(s). In the event of tie scores, HUD Headquarters, in consultation with the Department of Health and Human Services, will rank the applications on the basis of selection criterion 2—supportive services capability; and selection criterion 3—quality of the proposed supportive services plan.

When remaining supportive service funds are insufficient to fund the next highest scoring application(s) in full, HUD Headquarters may reduce the requested amount to partially fund the final application(s). Applicants that do not wish to have the size of their program reduced may indicate in their application that they do not wish to be considered for a reduced grant. Headquarters will skip over these applicants if assigning the remaining funding would result in a reduced grant. Successful applicants will be notified by the HUD Field Office and invited to submit applications for section 8 rental voucher assistance.

To provide each applicant PHA/IHA a fair and equitable opportunity to receive a supportive services grant and an invitation to submit an application for rental vouchers under the Elderly Independence demonstration, the Department will utilize the objective rating criteria stated in this notice to rate all supportive services applications found acceptable for further processing.

Applicants will be rated on the following criteria:

(1) Selection Criterion 1: PHA/IHA Section 8 Administrative Capability (25 Points)

(a) Description: Overall PHA/IHA administrative ability as evidenced by factors such as leasing rates and correct administration of housing quality standards, compliance with fair housing and equal opportunity program requirements, tenant rent computation, and recent reasonableness requirements in the rental voucher, rental certificate, and moderate rehabilitation programs.

(b) Rating: 13–25 points. The Field Office rates overall PHA/IHA administration of the rental voucher, rental certificate, and moderate

rehabilitation programs as excellent; there are no serious outstanding management review, fair housing and equal opportunity monitoring review, or Inspector General audit findings; and the leasing rate for rental vouchers and rental certificates under Annual Contributions Contract (ACC) for one year was at least 95 percent as of September 30, 1991;

1–12 points. The Field Office rates the overall PHA/IHA administration of the rental voucher, rental certificate, and moderate rehabilitation programs as good; any management review, fair housing and equal opportunity monitoring review, or Inspector General audit findings are being satisfactorily addressed; and the leasing rate for rental vouchers and rental certificates under ACC for one year was at least 85 percent as of September 30, 1991;

0 points. If the PHA/IHA does not satisfy any of the elements in this selection criterion, assign 0 points.

(2) Selection Criterion 2: Supportive Services Capability (20 Points)—

(a) Description: Prior experience with delivery of effective supportive services programs by the PHA/IHA or the PHA's/IHA's proposed subcontractor.

(b) Rating: 11–20 points. PHA/IHA or subcontractor currently administers or has past experience administering an effective supportive service delivery program for frail elderly persons or has demonstrated capability to obtain expertise based on other supportive service program delivery experience.

1–10 points. PHA/IHA or subcontractor has delivered supportive services programs in the past.

0 points. PHA/IHA or subcontractor has no experience in the delivery of supportive service programs.

(3) Rating Criterion 3: Quality of the Proposed Supportive Services Plan (25 Points)—

(a) Description: The quality of the proposed supportive services program and evidence that the proposed supportive services will be provided.

(b) Rating: 13–25 points. The PHA's/IHA's supportive services plan includes written commitments from the providers of supportive services necessary to address the needs identified in at least three of the five activities of daily living as defined in the demonstration guidelines; the PHA/IHA has commitments from at least 3 qualified persons (one of which is a qualified medical professional) to serve as the professional assessment committee (PAC) or a commitment from an alternative entity agreeing to perform

the functions of the PAC; and the PHA's/IHA's supportive services plan adequately addresses how PHA-IHA will match the necessary but minimum number of services that each frail elderly participant requires.

1-12 points. The PHA/IHA's supportive services plan includes written commitments from the providers of supportive services necessary to address the needs identified in at least two of the five activities of daily living as defined in the demonstration guidelines; and the PHA's/IHA's supportive services plan adequately addresses how the PHA/IHA will match the necessary but minimum number of services that each frail elderly participant requires. (PAC members of alternate entity need not be selected yet.)

0 points. The PHA's/IHA's supportive services plan fails to include written commitments from the providers of supportive services necessary to address the needs identified in at least two of the five daily activities of daily living as identified in the demonstration guidelines; or the PHA's/IHA's supportive services plan does not adequately address how the PHA/IHA will match the necessary but minimum number of services that each frail elderly participant requires.

(4) Rating Criterion 4: Supportive Services Funding (15 Points)—

(a) Description: The extent to which the proposed funding for supportive services is or will be available throughout the five year demonstration period.

(b) Rating: 8-15 points. There are reasonable assurances from supportive service providers that services will be continued during years 2-5 of the demonstration and the PHA/IHA has a comprehensive plan for obtaining funding for the required 50-55 percent match for years 2-5 of the demonstration.

1-7 points. The PHA/IHA has a plan to obtain funding for the required 50-55 percent match for years 2-5 of the demonstration.

0 points. There is no evidence of any plans for obtaining the required match after the first year of the demonstration.

(5) Rating Criterion 5: Need for Frail Elderly Program (5 Points)—

(a) Description: The need for a program providing both housing assistance and supportive services for frail elderly persons in the area to be served, as demonstrated by the PHA's/IHA's analysis of the size and characteristics of the population to be served.

(b) Rating: 3-5 points. The PHA/IHA has documented that there is a need in the PHA/IHA jurisdiction for the Elderly Independence demonstration which is not being met through existing programs, and the documentation provides a thorough analysis of the size and characteristics of the frail elderly population.

1-2 points. The PHA/IHA has documented that there is a need in the PHA/IHA jurisdiction for the Elderly Independence demonstration which is not being met through existing programs, but the documentation only provides a cursory analysis of the frail elderly population.

0 points. There is no need, or the PHA/IHA has not adequately demonstrated the need for the number of frail elderly individuals proposed to be provided supportive services through the PHA/IHA's program.

(6) Rating Criterion 6: Involvement of Area Agency/State Agency on Aging (10 Points)—

(a) Description: The extent to which the area agency/state agency on Aging is playing an active role in the supportive services program (10 points).

(b) Rating: 6-10 points. The letter from the area agency/state agency indicates specifically how the agency was involved in the development of the proposed supportive services program and the assessment/case management system; indicates that the agency reviewed the application prior to submission to HUD; and indicates that the agency will be very involved in the ongoing operations of the project (if funded).

1-5 points. The letter from the area agency/state agency indicates only minimal involvement in the development and review of the application and in the project's ongoing operations (if funded).

0 points. The letter only indicates general support for the proposal, without specific involvement by the area agency/state agency on aging.

(F) Unacceptable Applications

(1) Following the 14-day period provided to applicants to cure technical deficiencies in applications (see Section IV of this NOFA), the Field Office will disapprove PHA/IHA applications that it determines are not acceptable for processing. The Field Office notification of rejection letter must state the basis for the Field Office decision.

Material to cure technical deficiencies which is received after close of business on the fourteenth day after the date of HUD's written notice will not be accepted. If the PHA/IHA has not cured

all technical deficiencies by this deadline, the application will be rejected as incomplete.

All PHAs/IHAs are encouraged to review the initial screening checklist provided in Section IV of this NOFA. The checklist identifies all technical requirements needed for application processing. PHAs are reminded that certain technical requirements listed in the Elderly Independence Guidelines have been revised and should use the checklist provided in this NOFA to ensure that their applications meet the necessary requirements.

A PHA/IHA application must comply with the requirements of this NOFA (including the drug-free workplace certification and anti-lobbying certification and disclosure requirements). Except for the technical deficiencies listed in Section IV of this NOFA, all application elements must be submitted to HUD by the application submission deadline. All technical deficiencies must be corrected by the end of the 14 day technical deficiency correction period.

(2) Applications that fall into any of the following categories will not be processed:

(a)(i) The Department of Justice has brought a civil rights suit against the applicant PHA/IHA, and the suit is pending;

(ii) There are outstanding findings of noncompliance with civil rights statutes, Executive Orders, or regulations as a result of formal administrative proceedings, or the Secretary has issued a charge against the applicant under the Fair Housing Act, unless the applicant is operating under a conciliation or compliance agreement designed to correct the areas of noncompliance;

(iii) HUD has deferred application processing by HUD under title VI of the Civil Rights Act of 1964, the Attorney General's Guidelines (28 CFR 50.3) and the HUD Title VI regulations (24 CFR 1.8) and procedures (HUD Handbook 8040.1) or under section 504 of the Rehabilitation Act of 1973 and HUD regulations (24 CFR 8.57).

(b) The PHA/IHA has serious, unaddressed, outstanding Inspector General audit findings or fair housing and equal opportunity monitoring reviewed findings or Field Office management review findings for one or more of its Rental Certificate, Rental Voucher, or Moderate Rehabilitation programs, or, in the case of a PHA/IHA that is not currently administering a Rental Certificate, Rental Voucher, or Moderate Rehabilitation Program, for its Public Housing Program;

(c) The leasing rate for Rental Certificates and Rental Vouchers under ACC for at least one year is less than 75 percent, or, in the case of a PHA/IHA not currently administering a Rental Certificate or Rental Voucher Program, a leasing rate for all units available for occupancy in the Public or Indian Housing Programs is less than 75 percent; or

(d) The PHA/IHA is involved in litigation and HUD determines that the litigation may seriously impede the ability of the PHA/IHA to administer an additional increment of Rental Vouchers and the supportive services grant.

II. Application Process

(A) Forms

To assist PHAs/IHAs, the following are attached to this notice: SF-424, Request for Federal Assistance [Attachment 1]; the Certification for a Drug-Free Workplace [Attachment 2]; the text for Certification Regarding Lobbying [Attachment 3]; Standard Form LLL, Disclosure of Lobbying Activities [Attachment 4]; the text for the Maintenance of Effort certification [Attachment 5]; SF 424A and instructions for explaining and justifying the supportive services budget [Attachment 6], and HUD Form 2880, Applicant Disclosure Report [Attachment 7].

HUD will invite successful applicants to submit a HUD 52515 for the Section 8 rental voucher assistance.

(B) Application Kits

PHAs/IHAs may obtain an application kit from the local HUD Field Office/Indian Program Office. The application kit contains the forms and certifications provided at the end of this NOFA and the checklist for technical requirements at Section III(D) below. The application kit does not contain any information that is not in the NOFA, however, some PHAs/IHAs may prefer

the checklist, forms, and certifications in a package separate from the NOFA.

(C) Application Submission Deadline

PHA/IHA applications must be received in the HUD Field Office/Indian Programs Office on July 13, 1992 by 3:30 p.m. local time.

The application deadline is firm as to date and hour. In the interest of fairness to all competing applicants, the Department will treat as ineligible for consideration any application that is not received on or before the application deadline. Applicants should take this practice into account and make early submission of their materials to avoid any risk of loss of eligibility brought about by unanticipated delays or other delivery-related problems.

III. Application Submission Requirements

(A) General

Applicants may apply for a maximum of 10 percent (\$1,000,000) of the supportive service funds. PHAs/IHAs may apply for up to 150 rental vouchers after selected to receive supportive services funding pursuant to this NOFA; PHAs/IHAs must apply for at least 25 rental vouchers. The number of efficiency and one bedroom rental vouchers the PHA intends to apply for, and the estimated average monthly adjusted for these unit sizes, must be indicated in the application, and PHAs must indicate whether they would be willing to accept fewer units. Applications for less than 25 or more than 150 rental vouchers per PHA will be rejected.

The PHA/IHA application should include an explanation of how the application meets, or will meet, application selection criteria. Failure to submit a narrative description is not cause for application rejection; however, a Field Office can only rate and rank an application based on information it has on-hand.

(B) Certification Regarding Drug-Free Workplace

The Drug-Free Workplace Act of 1988 requires grantees of Federal agencies to certify that they will provide a drug-free workplace. Thus, each PHA/IHA must certify (even though it has done so previously) that it will comply with the drug-free workplace requirements in accordance with 24 CFR part 24 subpart F. (See attached Certificate for Drug-Free Workplace, Attachment 2.)

(C) Certification Regarding Lobbying

Section 319 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (the "Byrd Amendment") generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. The Department's regulations on these restrictions on lobbying are codified at 24 CFR part 87. To assist PHAs/IHAs, the text for the Certification Regarding Lobbying [Attachment 3] and Standard Form LLL, "Disclosure Form to Report Lobbying" [Attachment 4] are attached. IHAs established by an Indian tribe as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment, but IHAs established under State law are not excluded from the statute's coverage.

(D) Checklist for Technical Requirements

The following checklist specifies the required information which must be submitted in the PHA's/IHA's application. It is recommended but not required that the application contain a narrative explaining how the application meets the selection criteria.

INITIAL SCREENING CHECKLIST

| PHA | | Field office | | |
|--------------------------|--------------------------|--------------------------|--------------------------|--|
| Yes | No | Yes | No | |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 1. The application contains a cover letter stating the total five year requested grant amount and indicates whether the PHA/IHA would be willing to accept a reduced grant and a corresponding reduction in the number of units. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 2. The application states the number of frail elderly participants the PHA/IHA's program will support and the number of efficiency and one-bedroom rental vouchers and the monthly adjusted income (see section H of HUD 52515) by bedroom size for which the PHA/IHA intends to submit an application if selected to participate in the demonstration. The number requested must be between 25 and 150 rental vouchers per PHA/IHA. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 3. The application contains Standard Form (SF 424, Request for Federal Assistance (this is not to be used for intergovernmental review, but for financial tracking purposes). The PHA/IHA completes all items following the instructions on the reverse of the form, except for items 2, 3, and 4. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 4. The application addresses the PHA's past experience, if any, in delivery of supportive services to the frail elderly, and/or other relevant experience in the delivery of supportive services. |
| <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | 5. The application contains a description of the size and characteristics of the frail elderly population in the PHA's jurisdiction and their housing and supportive services needs. |

INITIAL SCREENING CHECKLIST—Continued

| PHA | | Field office | | |
|-----|----|--------------|----|---|
| Yes | No | Yes | No | |
| | | | | <p>6. The application contains a supportive services plan, including a supportive services budget consistent with Attachment 6. At minimum, the following information must be included (check if included):</p> <ul style="list-style-type: none"> —A description of each proposed supportive service, the identity of the proposed service provider; a statement of qualifications of each proposed service provider; and an explanation why the service is needed to keep participants independent; —A supportive services budget listing the first year cost for each supportive service and administrative costs for the supportive services program; cost estimates for services and administration expenses for years 2-5; and identification of the resources to be used to cover the PHA/IHA match for the year one costs including the dollar value for in-kind items or donated time (Attachment 6 provides detailed instruction on required format of the supportive services budget); —A firm commitment from each supportive service provider to make available all listed resources for that provider for the first year of the demonstration (PHAs/IHAs should note that while reasonable assurances of commitment from service providers for years 2-5 is not a technical requirement, applications which contain such assurances will receive higher scores under rating criterion 4); —A description of the assessment and case management process, including the proposed method of determining whether a person qualifies as a frail elderly person (specifying any additional eligibility requirements proposed by the agency) and the mechanisms for developing housing and supportive services plan for each person and for monitoring that person's progress in meeting that plan; —Procedures for the transition of participants out of the demonstration that become too frail to continue or well enough to discontinue the services component. —A plan for coordinating housing assistance and supportive services. —A plan for the continuation of supportive services for program participants at the end of the demonstration period; and —An explanation of the process for setting of participant fees and how the PHA will monitor fee collections. |
| | | | | <p>7. The application contains a letter signed by the director of the PHA/IHA that:</p> <ul style="list-style-type: none"> —Commits to meeting the local match requirements each year if the demonstration; —Indicates the PHA/IHA will create or has created a professional assessment committee (PAC) that includes at least 1 qualified medical professional and other persons professionally competent to appraise the functional abilities of the frail elderly, or will work with another entity which will assist the PHA/IHA in identifying and providing only services that each frail elderly person needs to remain living independently (PHAs/IHAs should note that applications which contain commitments from individuals to serve as the PAC or an alternative entity agreeing to perform the functions of the PAC will receive a higher score under rating criterion 3); —Provides assurances that the PHA/IHA will make available the services listed in the PHA application for the five years of the demonstration; —States that in cases where participants are certified to pay less than 10% of the supportive service costs the PHA/IHA will share the cost of the difference, up to 50% of the shortfall; and —Certifies that the application has been developed in consultation with the Area Agency on Aging (or the State Unit on Aging if that state is not subdivided) and that the PHA will consult with this agency during the demonstration. |
| | | | | <p>8. The application contains a description of how the PHA/IHA will ensure that the service providers are providing supportive services at a reasonable cost, adequate to meet the needs of the persons to be served.</p> |
| | | | | <p>9. The application contains a letter from the Area Agency on Aging (or the State Unit on Aging if that state is not subdivided) stating the involvement of the agency in the development of the application and the supportive services plan, and the proposed role that the Area Agency will have during the life of the grant, if funded. The letter shall also state whether the cost of each supportive service is reasonable and consistent with other service programs in that jurisdiction, and identify plans for ongoing agency involvement and for agency review of program operations at regular intervals.</p> |
| | | | | <p>10. Certifications for:</p> <ul style="list-style-type: none"> —Drug-Free Work Place; —Lobbying Certification form; —Prohibition Against Lobbying, SF-LLL, if warranted; —HUD Form 2880 (Applicant Disclosure) (See Section VI (D)(2) of this NOFA); —Agreement to participate in the HUD evaluation and cooperative with the evaluation team; —Maintenance of effort, consistent with the stipulations of Section X of the guidelines (note that supportive service providers must also provide this certification); and —The applicant's financial management system for the supportive services grant meets the standards for fund control and accountability found at 24 CFR 85.20 or Attachment F of OMB Circular A-110, as applicable. |

If the PHA exercises the option to limit the geographic area of the Elderly Independence demonstration, the following item is also required in the application submission.

| PHA | | Field Office | | |
|-----|----|--------------|----|--|
| Yes | NA | Yes | NA | |
| | | | | A justification of the decision to limit the demonstration to a geographic area, stating the limits of the service area of the service providers which it proposes to utilize, cost efficiency and effectiveness of such supportive service delivery, including maps with the relevant boundaries, and racial/ethnic description of the population, and a description of the nature and cost of housing in the specified area. |

IV. Corrections to Deficient Applications

To be eligible for processing, an application must be received by the Field Office no later than the application submission deadline date and time specified at Section II(c) of the NOFA. The Field Office will initially screen all applications and notify PHAs/IHAs of technical deficiencies by letter. Field Office notification of PHAs/IHAs must be uniform.

The purpose of this process is to assist an applicant in completing a ratable proposal and not to provide for an application to be substantively improved once it has been submitted. The following is a list of items that may be submitted by a PHA/IHA during the technical correction period. This list is intended to be a complete list and only these items may be requested or submitted after the application submission deadline date:

Certifications for:

- Drug-Free Work Place
- Lobbying Certification Form
- Disclosure of Lobbying Activities, SF—LLL
- Maintenance of effort, consistent with the stipulations of Section X of the elderly Independence Guidelines
- The applicant's financial management system for the supportive services grant meets the standards for fund control and accountability found at 24 CFR 85.20 or Attachment F of OMB Circular A-110, as applicable.

—HUD Form 2880, Applicant Disclosures

All PHAs/IHAs must submit corrections within 14 calendar days from the date of HUD's letter notifying the applicant of any such deficiency. Information received after close of business on the fourteenth day of the correction period will not be accepted and the application will be rejected on the basis of being incomplete. All PHAs/IHAs are encouraged to review the initial screening checklist provided in Section III of the notice. The checklist identifies all technical requirements needed for application processing.

V. Funding Award Process

In accordance with section 102 of the Department of Housing and Urban Development Reform Act of 1989 and HUD's regulation at 24 CFR 12.16, HUD will notify the public by notice published in the *Federal Register* of all award decisions made by HUD under this competition. HUD and recipients of awards under this NOFA also shall comply with the provisions of Section VI(D) of this NOFA.

VI. Other Matters

(A) Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with the Department's regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street, SW., Washington, DC 20410.

(B) Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that this NOFA does not have substantial, direct effects on the States, on their political subdivisions, or on the relationship between the Federal government and the States, or on the distribution of power or responsibilities among the various levels of government, because this NOFA would not substantially alter the established roles of HUD, the States and local governments, including PHAs/IHAs.

(C) Impact on the Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that the policies contained in these guidelines may have a

significant impact on the maintenance and general well-being of some families. The Elderly Independence demonstration can be expected to provide additional decent and sanitary housing for frail elderly individuals. Further, the supportive services provided by this program are expected to prevent or postpone unnecessary or premature institutionalization, and reduce unnecessary stress and financial burden on participant's families. Since the impact on the family is considered beneficial, no further review is necessary.

(D) Accountability in the Provision of HUD Assistance

On March 14, 1991 (56 FR 11032), HUD published a final rule to implement section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act). The final rule is codified at 24 CFR part 12. Section 102 contains a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 16, 1992, HUD published at 57 FR 1942, additional information that gave the public (including applicants for, and recipients of, HUD assistance) further information on the implementation of section 102. The documentation, public access, and disclosure requirements of section 102 are applicable to assistance awarded under this NOFA as follows:

(1) Documentation and Public Access

HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a five-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulation at 24 CFR part 15. In addition HUD will include the recipients of assistance pursuant to this NOFA in its quarterly *Federal Register* notice of all recipients of HUD assistance awarded on a competitive basis. (See 24 CFR 12.14(a) and 12.16(b), and the notice published in the *Federal Register* on January 16, 1992 (57 FR 1942), for further information on these requirements.)

(2) Disclosures

HUD will make available to the public for five years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period generally less than three years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulation at 24 CFR part 15. (See 24 CFR subpart C, and the notice published in the *Federal Register* on January 16, 1992 (57 FR 1942), for further information on these disclosure requirements.)

(E) Prohibition Against Lobbying Activities

The use of funds awarded under this NOFA is subject to the disclosure requirements and prohibitions of section 319 of the Department of Interior and Related Agencies Appropriations Act for Fiscal Year 1990 (31 U.S.C. 1352) (the "Byrd Amendment") and the implementing regulations at 24 CFR part 87. These authorities prohibit recipients of Federal contracts, grants, or loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific contract, grant, or loan. The prohibition also covers the awarding of contracts, grants, cooperative agreements, or loans unless the recipient has made an acceptable certification regarding lobbying. Under 24 CFR part 87, applicants, recipients, and subrecipients of assistance exceeding \$100,000 must certify that no Federal funds have been or will be spent on lobbying activities in connection with

the assistance. IHAs established by an Indian tribe as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment, but IHAs established under State law are not excluded from the statute's coverage.

(F) Prohibition Against Lobbying of HUD Personnel

Section 13 of the Department of Housing and Urban Development Act (42 U.S.C. 3537b) contains two provisions dealing with efforts to influence HUD's decisions with respect to financial assistance. The first imposes disclosure requirements on those who are typically involved in these efforts—those who pay others to influence the award of assistance or the taking of a management action by the Department and those who are paid to provide the influence. The second restricts the payment of fees to those who are paid to influence the award of HUD assistance, if the fees are tied to the number of housing units received or are based on the amount of assistance received, or if they are contingent upon the receipt of assistance. Section 13 was implemented by final rule published in the *Federal Register* on May 17, 1991 (56 FR 29912). If readers are involved in any efforts to influence the Department in these ways, they are urged to read the final rule, particularly the examples contained in Appendix A of the rule.

Any questions concerning the rule should be directed to Arnold J. Haiman, Director, Office of Ethics, room 2158, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington DC 20410-3000. Telephone: (202) 708-3815 (voice/TDD). (This is not a toll-free number.) Forms necessary for compliance with the rule may be obtained from the local HUD office.

(G) Prohibition Against Advance Information on Funding Decisions.

Section 103 of the Reform Act proscribes the communication of certain information by HUD employees to persons not authorized to receive that information during the selection process for the award of assistance that entails a competition for its distribution. HUD's regulation implementing section 103 are codified at 24 CFR part 4 (see 56 FR 22088, May 13, 1991). In accordance with the requirements of section 103, HUD employees involved in the review of applications and in the making of funding decisions under a competitive funding process are restrained by 24 CFR part 4 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted by 24 CFR part 4. Applicants who have questions should contact the HUD Office of Ethics (202) 708-3815 (voice/TDD). (This is not a toll-free number.)

Authority: Section 803 of the National Affordable Housing Act (Pub. L. 101-235, approved November 28, 1990). The regulation governing the rental voucher program are published at 24 CFR part 887. The program Guidelines for the Elderly Independence Demonstration Program were published in the *Federal Register* on February 4, 1991 at 56 FR 4506, and certain sections have been revised by separate notice published elsewhere in today's *Federal Register*.

Dated: May 21, 1992.

Joseph G. Schiff,
Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210-33-M

Attachment 1
OMB Approval No. 0348-0043**APPLICATION FOR
FEDERAL ASSISTANCE**

| | | | |
|--|--|------------------------------|----------------------|
| 1. TYPE OF SUBMISSION: Application <input type="checkbox"/> Construction <input type="checkbox"/> Construction <input type="checkbox"/> Non-Construction <input type="checkbox"/> Non-Construction | | 2. DATE SUBMITTED | Applicant Identifier |
| 3. DATE RECEIVED BY STATE | | State Application Identifier | |
| 4. DATE RECEIVED BY FEDERAL AGENCY | | Federal Identifier | |

| | | | | | | | | | | | | | | | | | | | | | | |
|--|---|---------------------|-----------------------------|--------------|--|--------------|-----------------------|-------------|-----------------|---------------|---------------|-------------------|------------------------|---------------------|---------------------------|-------------------|----|-----|----------|----|-----|--|
| 5. APPLICANT INFORMATION | | | | | | | | | | | | | | | | | | | | | | |
| Legal Name: | Organizational Unit: | | | | | | | | | | | | | | | | | | | | | |
| Address (give city, county, state, and zip code): | Name and telephone number of the person to be contacted on matters involving this application (give area code): | | | | | | | | | | | | | | | | | | | | | |
| 6. EMPLOYER IDENTIFICATION NUMBER (EIN): <div style="border: 1px solid black; width: 150px; height: 20px; margin: 5px 0;"></div> | | | | | | | | | | | | | | | | | | | | | | |
| 7. TYPE OF APPLICANT: (enter appropriate letter in box) <input type="checkbox"/> <table style="width: 100%; font-size: small;"> <tr> <td>A. State</td> <td>H. Independent School Dist.</td> </tr> <tr> <td>B. County</td> <td>I. State Controlled Institution of Higher Learning</td> </tr> <tr> <td>C. Municipal</td> <td>J. Private University</td> </tr> <tr> <td>D. Township</td> <td>K. Indian Tribe</td> </tr> <tr> <td>E. Interstate</td> <td>L. Individual</td> </tr> <tr> <td>F. Intermunicipal</td> <td>M. Profit Organization</td> </tr> <tr> <td>G. Special District</td> <td>N. Other (Specify): _____</td> </tr> </table> | | A. State | H. Independent School Dist. | B. County | I. State Controlled Institution of Higher Learning | C. Municipal | J. Private University | D. Township | K. Indian Tribe | E. Interstate | L. Individual | F. Intermunicipal | M. Profit Organization | G. Special District | N. Other (Specify): _____ | | | | | | | |
| A. State | H. Independent School Dist. | | | | | | | | | | | | | | | | | | | | | |
| B. County | I. State Controlled Institution of Higher Learning | | | | | | | | | | | | | | | | | | | | | |
| C. Municipal | J. Private University | | | | | | | | | | | | | | | | | | | | | |
| D. Township | K. Indian Tribe | | | | | | | | | | | | | | | | | | | | | |
| E. Interstate | L. Individual | | | | | | | | | | | | | | | | | | | | | |
| F. Intermunicipal | M. Profit Organization | | | | | | | | | | | | | | | | | | | | | |
| G. Special District | N. Other (Specify): _____ | | | | | | | | | | | | | | | | | | | | | |
| 8. TYPE OF APPLICATION: <input type="checkbox"/> New <input type="checkbox"/> Continuation <input type="checkbox"/> Revision If Revision, enter appropriate letter(s) in box(es): <input type="checkbox"/> <input type="checkbox"/> A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration Other (specify): _____ | | | | | | | | | | | | | | | | | | | | | | |
| 9. NAME OF FEDERAL AGENCY: | | | | | | | | | | | | | | | | | | | | | | |
| 10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: <div style="border: 1px solid black; width: 100px; height: 20px; margin: 5px 0;"></div> | 11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: | | | | | | | | | | | | | | | | | | | | | |
| 12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.): <div style="border: 1px solid black; height: 40px; margin: 5px 0;"></div> | | | | | | | | | | | | | | | | | | | | | | |
| 13. PROPOSED PROJECT: <table style="width: 100%; font-size: small;"> <tr> <td style="width: 50%;">Start Date</td> <td style="width: 50%;">Ending Date</td> </tr> </table> | | Start Date | Ending Date | | | | | | | | | | | | | | | | | | | |
| Start Date | Ending Date | | | | | | | | | | | | | | | | | | | | | |
| 14. CONGRESSIONAL DISTRICTS OF: a. Applicant b. Project | | | | | | | | | | | | | | | | | | | | | | |
| 15. ESTIMATED FUNDING: <table style="width: 100%; font-size: small;"> <tr> <td style="width: 30%;">a. Federal</td> <td style="width: 10%;">\$</td> <td style="width: 10%;">.00</td> </tr> <tr> <td>b. Applicant</td> <td>\$</td> <td>.00</td> </tr> <tr> <td>c. State</td> <td>\$</td> <td>.00</td> </tr> <tr> <td>d. Local</td> <td>\$</td> <td>.00</td> </tr> <tr> <td>e. Other</td> <td>\$</td> <td>.00</td> </tr> <tr> <td>f. Program Income</td> <td>\$</td> <td>.00</td> </tr> <tr> <td>g. TOTAL</td> <td>\$</td> <td>.00</td> </tr> </table> | a. Federal | \$ | .00 | b. Applicant | \$ | .00 | c. State | \$ | .00 | d. Local | \$ | .00 | e. Other | \$ | .00 | f. Program Income | \$ | .00 | g. TOTAL | \$ | .00 | 16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON: DATE _____ b. NO <input type="checkbox"/> PROGRAM IS NOT COVERED BY E.O. 12372 <input type="checkbox"/> OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW |
| a. Federal | \$ | .00 | | | | | | | | | | | | | | | | | | | | |
| b. Applicant | \$ | .00 | | | | | | | | | | | | | | | | | | | | |
| c. State | \$ | .00 | | | | | | | | | | | | | | | | | | | | |
| d. Local | \$ | .00 | | | | | | | | | | | | | | | | | | | | |
| e. Other | \$ | .00 | | | | | | | | | | | | | | | | | | | | |
| f. Program Income | \$ | .00 | | | | | | | | | | | | | | | | | | | | |
| g. TOTAL | \$ | .00 | | | | | | | | | | | | | | | | | | | | |
| 17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? <input type="checkbox"/> Yes If "Yes," attach an explanation. <input type="checkbox"/> No | | | | | | | | | | | | | | | | | | | | | | |
| 18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED | | | | | | | | | | | | | | | | | | | | | | |
| a. Typed Name of Authorized Representative | b. Title | c. Telephone number | | | | | | | | | | | | | | | | | | | | |
| d. Signature of Authorized Representative | e. Date Signed | | | | | | | | | | | | | | | | | | | | | |

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

- | Item: | Entry: | Item: | Entry: |
|---|--------|--|--------|
| 1. Self-explanatory. | | 12. List only the largest political entities affected (e.g., State, counties, cities). | |
| 2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable). | | 13. Self-explanatory. | |
| 3. State use only (if applicable). | | 14. List the applicant's Congressional District and any District(s) affected by the program or project. | |
| 4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank. | | 15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate <u>only</u> the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15. | |
| 5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application. | | 16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process. | |
| 6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service. | | 17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes. | |
| 7. Enter the appropriate letter in the space provided. | | 18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.) | |
| 8. Check appropriate box and enter appropriate letter(s) in the space(s) provided: — "New" means a new assistance award. — "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. — "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation. | | | |
| 9. Name of Federal agency from which assistance is being requested with this application. | | | |
| 10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested. | | | |
| 11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project. | | | |

Attachment 2—Certification Regarding Drug-Free Workplace Requirements Instruction for Certification

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which reliance was placed when the agency determined to award the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals Alternate II applies. Certification Regarding Drug-Free Workplace Requirements Alternate I.

(A) The grantee certifies that it will provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing a drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required in paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employees will—

(1) Abide by the terms of the statement; and

(2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

(e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;

(f) Taking one of the following actions, within 30 days of receiving notice under

subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination; or

(2) Requiring such employee to participate satisfactorily in a drug-abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee shall insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code) _____

Alternate II

The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance in conducting any activity with the grant.

BILLING CODE 4210-33-M

Attachment 3

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form -LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontractors, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this _____ date of _____, 19____.

By _____
(signature)

(typed or printed name)

(title, if any)

Covered Action:

(type and identity of program, project or activity)

DISCLOSURE OF LOBBYING ACTIVITIESApproved by OMB
0348-0046Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

Attachment 4

| | | |
|---|---|--|
| 1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance | 2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award | 3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____ |
| 4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known: Congressional District, if known: _____ | | 5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known: _____ |
| 6. Federal Department/Agency: | 7. Federal Program Name/Description: CFDA Number, if applicable: _____ | |
| 8. Federal Action Number, if known: | 9. Award Amount, if known: \$ _____ | |
| 10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI): | | b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI): |
| (attach Continuation Sheet(s) SF-LLL-A, if necessary) | | |
| 11. Amount of Payment (check all that apply): \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned | 13. Type of Payment (check all that apply): <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other; specify: _____ | |
| 12. Form of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify: nature _____ value _____ | | |
| 14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11: (attach Continuation Sheet(s) SF-LLL-A, if necessary) | | |
| 15. Continuation Sheet(s) SF-LLL-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No | | |
| 16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. | Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____ | |
| Federal Use Only: | | Authorized for Local Reproduction Standard Form - LLL |

DISCLOSURE OF LOBBYING ACTIVITIES
CONTINUATION SHEETApproved by OMB
0348-0046

Reporting Entity: _____ Page _____ of _____

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Standard Form - 111-A

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

Attachment 5

Text for the Maintenance of Effort Certification

The undersigned certifies that:

1. Those existing supportive services that a frail elderly person is already receiving and which the professional assessment committee (PAC) (or the entity performing the PAC's function) finds to be necessary to maintain the participant's independence will be maintained for the time that individual remains in the Elderly Independence demonstration, unless the PAC or other entity performing the assessment determines that those services are no longer needed.
2. Those services that frail elderly persons are already receiving before participating in the Elderly Independence demonstration will not be considered matching funds.

(signature)

(typed or printed name)

(title, if any)

(date)

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

| SECTION A — BUDGET SUMMARY | | | | | | |
|--|---|-----------------------------|-----------------|-----------------------|-----------------|-----------|
| Grant Program Function or Activity (a) | Catalog of Federal Domestic Assistance Number (b) | Estimated Unobligated Funds | | New or Revised Budget | | |
| | | Federal (c) | Non-Federal (d) | Federal (e) | Non-Federal (f) | Total (g) |
| 1. | | \$ | \$ | \$ | \$ | \$ |
| 2. | | | | | | |
| 3. | | | | | | |
| 4. | | | | | | |
| 5. TOTALS | | \$ | \$ | \$ | \$ | \$ |

| SECTION B — BUDGET CATEGORIES | | | | | |
|--|-------------------------------------|-----|-----|-----|-----------|
| Object Class Categories | GRANT PROGRAM, FUNCTION OR ACTIVITY | | | | Total (5) |
| | (1) | (2) | (3) | (4) | |
| a. Personnel | \$ | \$ | \$ | \$ | \$ |
| b. Fringe Benefits | | | | | |
| c. Travel | | | | | |
| d. Equipment | | | | | |
| e. Supplies | | | | | |
| f. Contractual | | | | | |
| g. Construction | | | | | |
| h. Other | | | | | |
| i. Total Direct Charges (sum of 6a - 6h) | | | | | |
| j. Indirect Charges | | | | | |
| k. TOTALS (sum of 6i and 6j) | \$ | \$ | \$ | \$ | \$ |
| 7. Program Income | \$ | \$ | \$ | \$ | \$ |

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

| SECTION C - NON-FEDERAL RESOURCES | | | | | |
|---|--------------------------------|-------------|-------------------|-------------|--|
| (a) Grant Program | (b) Applicant | (c) State | (d) Other Sources | (e) TOTALS | |
| 8. | \$ | \$ | \$ | \$ | |
| 9. | | | | | |
| 10. | | | | | |
| 11. | | | | | |
| 12. TOTALS (sum of lines 8 and 11) | \$ | \$ | \$ | \$ | |
| SECTION D - FORECASTED CASH NEEDS | | | | | |
| Total for 1st Year | 1st Quarter | 2nd Quarter | 3rd Quarter | 4th Quarter | |
| 13. Federal | \$ | \$ | \$ | \$ | |
| 14. Nonfederal | | | | | |
| 15. TOTAL (sum of lines 13 and 14) | \$ | \$ | \$ | \$ | |
| SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT | | | | | |
| (a) Grant Program | FUTURE FUNDING PERIODS (years) | | | | |
| | (b) First | (c) Second | (d) Third | (e) Fourth | |
| 16. | \$ | \$ | \$ | \$ | |
| 17. | | | | | |
| 18. | | | | | |
| 19. | | | | | |
| 20. TOTALS (sum of lines 16-19) | \$ | \$ | \$ | \$ | |
| SECTION F - OTHER BUDGET INFORMATION (Attach additional sheets if necessary) | | | | | |
| 21. Direct Charges: | | | | | |
| 22. Indirect Charges: | | | | | |
| 23. Remarks | | | | | |

INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A, B, C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A, B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b)

For applications pertaining to a single Federal grant program (Federal Domestic Assistance Catalog number) and *not* requiring a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a single program requiring budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in Column (a) and the respective catalog number on each line in Column (b).

For applications pertaining to multiple programs where one or more programs require a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g.) (continued)

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j — Show the amount of indirect cost.

Line 6k — Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A (continued)

Line 7 - Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal Resources

Lines 8-11 - Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) - Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) - Enter the contribution to be made by the applicant.

Column (c) - Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) - Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) - Enter totals of Columns (b), (c), and (d).

Line 12 - Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 - Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 - Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 - Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 - Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 - Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 - Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 - Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 - Provide any other explanations or comments deemed necessary.

Supplemental Instructions Justifying the Supportive Services Budget for the Elderly Independence Demonstration

PHAs/IHAs should carefully review the following sections of the Program Guidelines: Section VIII, Matching Funds; Section IX, Program Participant Fees; and Section XII, Budget Submission/Service Costs.

Budget Forms and Instructions

1. To meet the requirement for a supportive services budget listing the first year cost for each supportive service, administrative costs, and cost estimates for supportive services and administrative expenses in years 2-5, PHAs/IHAs must complete:

Standard Form 424A, "Budget Information—Non-Construction Program." The attached form, prescribed by OMB Circular A-102, allows applicants to plan several years actual expenditures. Round all amounts to the nearest dollar (e.g., \$500.50 should be rounded to \$501). The budget for the first year will include the estimated costs for start-up (e.g. purchase of materials and supplies) and the year one operation costs of the program. The budgets for years two through five will be estimates for the actual service and administrative costs of operation. Do not repeat start-up costs. Applicants are encouraged to factor in an inflation cost of five percent a year into their budget estimates. Applicants must make sure that there will be enough funds to carry the program through to the end of the five-year grant period.

The following instructions supplement the directions in the SF-424A.

Section A. Budget Summary

Lines 1-4, Columns (a) and (b)

On line 1, column (a), write "Program Administration."

On lines 2-4, column (a), list each supportive service. If additional space is needed for other supportive services, attach another copy of the form.

Leave column (b) blank.

Lines 1-4, Columns (c) and (d)

Leave blank.

Lines 1-4, Columns (e), (f) and (g)

For each entry in column (a), enter in columns (e) and (f) the amounts of funds needed for the first year of the demonstration. The amount in column (g) should be the sum of the amounts in columns (e) and (f).

Line 5

Show the totals in all columns used. If additional sheets were needed, include the amounts in the appropriate column on Line 5 of the first sheet.

Section B. Budget Categories

Line 6, Object Class Categories

In column headings (1) through (4), enter the titles of the shown on lines 1-4, column (a), Section A. If additional sheets were prepared for Section A, provide similar headings on each sheet.

Lines 6a-6h

Show the estimated direct cost amount for each object class category for each column.

Where supportive service providers have agreed to perform the service, skip to 6f and enter the estimated amount.

Leave Lines 6c and 6g blank.

Line 6i

Show total of lines 6a to 6h in each column.

Line 6j

Show amount of indirect costs. In most cases, this will not apply to the HOPE for elderly independence demonstration. According to OMB Circular A-122 and Federal Procurement Regulations (1-15.706), indirect costs are those costs not directly identified with a single final cost objective, but identified with two or more final objectives, e.g. those costs which are necessary to the services program operation, but cannot be charged as a direct cost to the program. These indirect costs can be fixed, predetermined or provisional, depending on the allocation method used by the applicant, or

If none, leave this entry blank.

Line 6k

Enter the total of the amounts in lines 6i and 6j. The total amount in line 6k should be the same as the sum of the amounts in Section A, column (g) on line 5. If additional sheets were prepared, be certain that the amounts are added summary totals.

Line 7, Program Income

Enter the amount of estimated income expected from the participant fee collections for each service provided. Do not include program funds from the grantee or in-kind contributions. Do not add or subtract this amount from the total project amount.

No amount may be shown on line 7, column (1) for "Program Administration."

Section C. Non-Federal Resources

Lines 8-11

Enter the amounts of non-federal resources. Do not include participants' fees. If in-kind contributions are included, provide an explanation on a separate sheet. In column (c), enter the resources provided through State or local government sources. (If the applicant is a State agency, its resources are entered under "applicant," not column c). In column (d) enter the resources provided by all other providers, such as private supportive service providers or local public health or transportation services that are generated from non-profit organizations or foundations such as Catholic Charities or the Lions or Kiwanis Clubs. Provide an explanation of all resources in Section C on a separate sheet, identifying the name of the resource(s) and the amount for each. The resources identified must cover the PHA/IHA match for the year one costs.

Column (a)—Enter the headings identical to Column (a), Section A.

Column (b)—Enter the amount of cash and in-kind contributions to be made by the grantee as shown in Section A.

Column (c)—Enter any cash or in-kind contributions to be provided by a State or local government agency.

Column (d)—Enter the amounts of any cash or in-kind contributions to be provided from all other sources.

Column (e)—Enter totals of Columns (b), (c), and (d).

Line 12

Enter the totals for each of Columns (b) through (e). The amount in column (e) is the PHA/IHA match for the year one costs. The amount in Column (e) plus the total amount from line 7 should be equal to the amount on line 5, column (f), Section A.

Section D. Forecasted Cash Needs

Line 13

Enter the amount of cash needed, by quarter, from HUD during the first year funding period.

Line 14

Enter the amount of cash anticipated, by quarter, for all other (non-federal) sources during the first year funding period.

Line 15

Enter the totals of amounts of Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for the Balance of the Project

Lines 16-19

Enter in Column (a) the same headings shown in Column (a), Section A. Enter in the proper column the amounts of Federal funds which will be needed to complete the program over the entire five-year grant period. If more than three lines are needed to list the supportive services, attach additional schedules as necessary.

Enter in Column (b) the estimated amount of first year funds needed.

Enter in Column (c) the estimated amount of second year funds needed.

Enter in Column (d) the estimated amount of third year funds needed.

Enter in Column (e) the estimated amount of fourth year funds needed. Please use Column (b), Section E, on a second page to show the fifth year of the grant.

Line 20

Enter the total for each column (b) through (d). When additional schedules are prepared for this section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21

Use this space to briefly explain amounts for individual direct object cost categories that may appear out of the ordinary. Use additional sheets as necessary.

Line 22

If indirect costs were listed in Section B, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect for year one of the demonstration, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23

Provide any other explanations required herein or any other comments deemed necessary. Attach additional sheets if necessary.

2. The PHA/IHA must attach an explanation and justification of the figures on the SF-424A. This information must also include the expected annual per person costs for each supportive service and an explanation how those costs were determined. The PHA/IHA needs to identify the resources to cover the PHA/IHA match for the year one costs as an attachment to Section C of the form, including the dollar value for in-kind items or donated time. The dollar value of in-kind items are limited to 10 percent of the 50 percent matching amount.

HUD suggests applicants utilize the Annual Program Budget Format (APBF) worksheet below as a base for developing the figures for the SF-424A form. By using this worksheet, the calculations can be aggregated for use on the SF-424A budget form. The worksheets for each service and administration may be attached to the SF-424A budget form as one basis for the required explanation of costs and justifications.

Annual Program Budget Format (APBF)

General

This is *not* a required form or format. It is *illustrative only*, to provide the PHA/IHA with a worksheet to determine and justify the information necessary to complete the SF-424A.

A separate APBF should be prepared for "program administration" and each supportive service listed in Section A, column (a). For example, if an PHA/IHA program consisted of a meal service, housekeeping service, and transportation service, the PHA/IHA would prepare four budget worksheets (one each for meals, housekeeping, transportation, and program administration). The totals in the right hand column should be annual figures. *Where the supportive service is being provided by a service provider, skip to item 4.*

Item 1—"Direct Labor"

Include the cost associated with each staff position or portion of the position required to carry out the supportive service described. Each position should be described in terms of the number of hours a week or month devoted to carrying out the duties and the rate of pay. This information will be entered on Part B, line 6a of the SF-424A.

Item 2—"Fringe Benefits"

Provide the percentage used to calculate fringe benefits for direct labor positions. This percentage may not exceed the percentage used to calculate benefits for the applicants' regular employees. This information will be entered on Part B, line 6b of the SF-424A.

Item 3—"Materials and Equipment"

Identify the cost of each item used in providing the supportive service or in the administration of the service program. This information will be entered on Part B, lines 6d and/or 6e of the SF-424A.

Item 4—"Subcontracts"

Provide the estimated number of participants, the average service cost per person, and the total cost for the supportive service or administration. Identify the supportive service provider and reference the description of the service provider and the commitment from the service provider to make available the listed resources that must be included elsewhere in the supportive services description.

This information will be entered on Part B, line 6f of the SF-424A.

Item 5—"Other"

Self-explanatory. This information will be entered on Part B, line h of the SF-424A.

Item 6—"Total Costs"

Sum of total figures for lines 1 to 5. This information will be entered on Section B, line 6i of the SF-424A.

Line 7a—"Participant Fees"

Based upon the process for setting fees as described elsewhere in the supportive services description. This information will be entered on Section B, line 7 of the SF-424A.

Note.—Participant fees may NOT be used to offset costs for administration.

Line 7b—"Program Funds From Applicant or Other Sources"

Include all non-HUD funds for the supportive service or program administration. Specify sources and the amount of all funding in footnotes. This information is necessary to complete Section C of the SF-424A.

Line 7c—"In-kind Resources"

This figure represents the dollar value of in-kind items such as the current market value of donated furniture, material, supplies, equipment, and food used in direct provision of services. Detail type, value and sources of in-kind resources in footnotes. Include an explanation for the estimated donated value of any item listed and why it is necessary to keep the program participants independent. This information is also necessary to complete Section C of the SF-424A.

Note.—To be considered income, the value of such in-kind contributions MUST be reflected in the total program cost of lines 1-6 above. Remember, in-kind can be no more than 10% of the 50% of the grantee's share of the budget.

Line 8—"Net Funds Requested"

Subtract line 6 from line 7. This is the supportive services grant amount requested for the supportive service.

BILLING CODE 4210-33-M

Applicant Name _____

Budget Category (Service) _____

Year _____

Annual Program Budget Format

Item Name _____

1. Direct Labor

_____ Total \$ _____

2. Fringe Benefits

_____ Total \$ _____

3. Materials and Equipment

_____ Total \$ _____

4. Subcontracts

_____ Total \$ _____

5. Other

_____ Total \$ _____

6. Total cost (service or administration) \$ _____

7. Non-Federal Income:

a. Participant contributions.... \$ _____
(at least 10% of line 6)b. Program funds from PHA or
other sources..... \$ _____

c. In-kind resources..... \$ _____

TOTAL INCOME \$ _____

8. Net Funds Requested (line 6 minus line 7) \$ _____

9. Footnotes

Applicant/Recipient
Disclosure/Update Report

U.S. Department of Housing
and Urban Development
Office of Ethics

Attachment 7



OMB Approval No. 2525-0101 (exp. 12/31/94)

Instructions. (See Public Reporting Statement and Privacy Act Statement and detailed instructions on page 4.)

Part I Applicant/Recipient Information

Indicate whether this is an Initial Report

or an Update Report ☐

1. Applicant/Recipient Name, Address, and Phone (include area code)

Social Security Number or
Employer ID Number

2. Project Assisted/ to be Assisted (Project/Activity name and/or number and its location by Street address, City, and State)

- 3 Assistance Requested/Received

- #### 4. HUD Program

- | | |
|------------------------------|--|
| 5. Amount Requested/Received | |
| \$ | |

Part II. Threshold Determinations -- Applicants Only

1. Are you requesting HUD assistance for a specific project or activity, as provided by 24 CFR Part 12, Subpart C, and have you received, or can you reasonably expect to receive, an aggregate amount of all forms of covered assistance from HUD, States, and units of general local government, in excess of \$200,000 during the Federal fiscal year (October 1 through September 30) in which the application is submitted?

☐ Yes ☐ No

If Yes, you must complete the remainder of this report.

If No, you must sign the certification below and answer the next question.

I hereby certify that this information is true. (Signature)

2. Is this application for a specific housing project that involves other government assistance?

☐ Yes ☐ No

If Yes, you must complete the remainder of this report.

If No, you must sign this certification.

I hereby certify that this information is true. (Signature)

Date _____

If your answers to both questions are No, you do not need to complete Parts III, IV, or V, but you must sign the certification at the end of the report.

Part III. Other Government Assistance Provided/Requested

[illegible]

- Is there other government assistance that is reportable in this Part and in Part V, but that is reported only in Part V? ☐ Yes ☐ No

If there is no other government assistance, you must certify that this information is true.

I hereby certify that this information is true. (Signature)

Date _____

Part IV. Interested Parties

Alphabetical list of all persons with a reportable financial interest in the project or activity (for individuals, give the last name first)

Social Security Number or Employee ID Number

Type of Participation in Project/Activity

Financial Interest in Project/Activity (\$ and %)

If there are no persons with a reportable financial interest, you must certify that this information is true.

I hereby certify that this information is true. (Signature) _____

Date _____

Part V. Report on Expected Sources and Uses of Funds

Source

If there are no sources of funds, you must certify that this information is true.

I hereby certify that this information is true. (Signature) _____

Date _____

Use

If there are no uses of funds, you must certify that this information is true.

I hereby certify that this information is true. (Signature) _____

Date _____

Certification

Warning: If you knowingly make a false statement on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosure of information, including intentional non-disclosure, is subject to civil money penalty not to exceed \$10,000 for each violation.

I certify that this information is true and complete.

Signature _____

Date _____

Public reporting burden for this collection of information is estimated to average 2.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Office of Information Policies and Systems, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600 and to the Office of Management and Budget, Paperwork Reduction Project (2535-0101), Washington, D.C. 20503. Do not send this completed form to either of these addressees.

Privacy Act Statement. Except for Social Security Numbers (SSNs) and Employer Identification Numbers (EINs), the Department of Housing and Urban Development (HUD) is authorized to collect all the information required by this form under section 102 of the Department of Housing and Urban Development Reform Act of 1989, 42 U.S.C. 3531. Disclosure of SSNs and EINs is optional. The SSN or EIN is used as a unique identifier. The information you provide will enable HUD to carry out its responsibilities under Sections 102(b), (c), and (d) of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101-235, approved December 15, 1989. These provisions will help ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. They will also help ensure that HUD assistance for a specific housing project under Section 102(d) is not more than is necessary to make the project feasible after taking account of other government assistance. HUD will make available to the public all applicant disclosure reports for five years in the case of applications for competitive assistance, and for generally three years in the case of other applications. Update reports will be made available along with the disclosure reports, but in no case for a period generally less than three years. All reports, both initial reports and update reports, will be made available in accordance with the Freedom of Information Act (5 U.S.C. §552) and HUD's implementing regulations at 24 CFR Part 15. HUD will use the information in evaluating individual assistance applications and in performing internal administrative analyses to assist in the management of specific HUD programs. The information will also be used in making the determination under Section 102(d) whether HUD assistance for a specific housing project is more than is necessary to make the project feasible after taking account of other government assistance. You must provide all the required information. Failure to provide any required information may delay the processing of your application, and may result in sanctions and penalties, including imposition of the administrative and civil money penalties specified under 24 CFR §12.34.

Note: This form only covers assistance made available by the Department. States and units of general local government that carry out responsibilities under Sections 102(b) and (c) of the Reform Act must develop their own procedures for complying with the Act.

Instructions (See Note 1 on last page.)

I. Overview. Subpart C of 24 CFR Part 12 provides for (1) initial reports from applicants for HUD assistance and (2) update reports from recipients of HUD assistance. An overview of these requirements follows.

A. Applicant disclosure (Initial) reports: General. All applicants for assistance from HUD for a specific project or activity must make a number of disclosures, if the applicant meets a dollar threshold for the receipt of covered assistance during the fiscal year in which the application is submitted. The applicant must also make the disclosures if it requests assistance from HUD for a specific housing project that involves assistance from other governmental sources.

Applicants subject to Subpart C must make the following disclosures:

- Assistance from other government sources in connection with the project,
- The financial interests of persons in the project,
- The sources of funds to be made available for the project, and
- The uses to which the funds are to be put.

B. Update reports: General. All recipients of covered assistance must submit update reports to the Department to reflect substantial changes to the initial applicant disclosure reports.

C. Applicant disclosure reports: Specific guidance. The applicant must complete all parts of this disclosure form if either of the following two circumstances in paragraph 1. or 2., below, applies:

1.a. **Nature of Assistance.** The applicant submits an application for assistance for a specific project or activity (See Note 2) in which:

HUD makes assistance available to a recipient for a specific project or activity; or

HUD makes assistance available to an entity (other than a State or a unit of general local government), such as a public housing agency (PHA), for a specific project or activity, where the application is required by statute or regulation to be submitted to HUD for any purpose; and

b. **Dollar Threshold.** The applicant has received, or can reasonably expect to receive, an aggregate amount of all forms of assistance (See Note 3) from HUD, States, and units of general local government, in excess of \$200,000 during the Federal fiscal year (October 1 through September 30) in which the application is submitted. (See Note 4)

2. The applicant submits an application for assistance for a specific housing project that involves other government assistance. (See Note 5) **Note:** There is no dollar threshold for this criterion: any other government assistance triggers the requirement. (See Note 6)

If the Application meets neither of these two criteria, the applicant need only complete Parts I and II of this report, as well as the certification at the end of the report. If the Application meets either of these criteria, the applicant must complete the entire report.

The applicant disclosure report must be submitted with the application for the assistance involved.

D. Update reports: Specific guidance. During the period in which an application for covered assistance is pending, or in which the assistance is being provided (as indicated in the relevant grant or other agreement), the applicant must make the following additional disclosures:

1. Any information that should have been disclosed in connection with the application, but that was omitted.
2. Any information that would have been subject to disclosure in connection with the application, but that arose at a later time, including information concerning an interested party that now meets the applicable disclosure threshold referred to in Part IV, below.
3. For changes in previously disclosed other government assistance:

For programs administered by the Assistant Secretary for Community Planning and Development, any change in other government assistance that exceeds the amount of such assistance that was previously disclosed by \$250,000 or by 10 percent of the assistance (whichever is lower).

For all other programs, any change in other government assistance that exceeds the amount of such assistance that was previously disclosed.

4. For changes in previously disclosed financial interests, any change in the amount of the financial interest of a person that exceeds the amount of the previously disclosed interests by \$50,000 or by 10 percent of such interests (whichever is lower).

5. For changes in previously disclosed sources or uses of funds:

a. For programs administered by the Assistant Secretary for Community Planning and Development:

Any change in a source of funds that exceeds the amount of all previously disclosed sources of funds by \$250,000 or by 10 percent of those sources (whichever is lower); and

Any change in a use of funds under paragraph (b)(1)(iii) that exceeds the amount of all previously disclosed uses of funds by \$250,000 or by 10 percent of those uses (whichever is lower).

b. For all programs, other than those administered by the Assistant Secretary for Community Planning and Development:

For projects receiving a tax credit under Federal, State, or local law, any change in a source of funds that was previously disclosed.

For all other projects, any change in a source of funds that exceeds the lower of:

The amount previously disclosed for that source of funds by \$250,000, or by 10 percent of the amount previously disclosed for that source, whichever is lower; or

The amount previously disclosed for all sources of funds by \$250,000, or by 10 percent of the amount previously disclosed for all sources of funds, whichever is lower.

c. For all programs, other than those administered by the Assistant Secretary for Community Planning and Development:

For projects receiving a tax credit under Federal, State, or local law, any change in a use of funds that was previously disclosed.

For all other projects, any change in a use of funds that exceeds the lower of:

The amount previously disclosed for that use of funds by \$250,000, or by 10 percent of the amount previously disclosed for that use, whichever is lower; or

The amount previously disclosed for all uses of funds by \$250,000, or by 10 percent of the amount previously disclosed for all uses of funds, whichever is lower.

Note: Update reports must be submitted within 30 days of the change requiring the update. The requirement to provide update reports only applies if the application for the underlying assistance was submitted on or after the effective date of Subpart C.

II. Line-by-Line Instructions.

A. Part I. Applicant/Recipient Information.

All applicants for HUD assistance specified in Section I.C.1.a., above, as well as all recipients required to submit an update report under Section I.D., above, must complete the information required by Part I. The applicant/recipient must indicate whether the disclosure is an initial or an update report. Line-by-line guidance for Part I follows:

1. Enter the full name, address, city, State, zip code, and telephone number (including area code) of the applicant/recipient. Where the applicant/recipient is an individual, the last name, first name, and middle initial must be entered. Entry of the applicant/recipient's SSN or EIN, as appropriate, is optional.

2. Applicants enter the name and full address of the project or activity for which the HUD assistance is sought. Recipients enter the name and full address of the HUD-assisted project or activity to which the update report relates. The most appropriate government identifying number must be used (e.g., RFP No.; IFB No.; grant announcement No.; or contract, grant, or loan No.) Include prefixes.

3. Applicants describe the HUD assistance referred to in Section I.C.1.a. that is being requested. Recipients describe the HUD assistance to which the update report relates.

4. Applicants enter the HUD program name under which the assistance is being requested. Recipients enter the HUD program name under which the assistance, that relates to the update report, was provided.

5. Applicants enter the amount of HUD assistance that is being requested. Recipients enter the amount of HUD assistance that has been provided and to which the update report relates. The amounts are those stated in the application or award documentation. NOTE: In the case of assistance that is provided pursuant to contract over a period of time (such as project-based assistance under section 8 of the United States Housing Act of 1937), the amount of assistance to be reported includes all amounts that are to be provided over the term of the contract, irrespective of when they are to be received.

Note: In the case of Mortgage Insurance under 24 CFR Subtitle B, Chapter II, the mortgagor is responsible for making the applicant disclosures, and the mortgagee is responsible for furnishing the mortgagor's disclosures to the Department. Update reports must be submitted directly to HUD by the mortgagor.

Note: In the case of the Project-Based Certificate program under 24 CFR Part 882, Subpart G, the owner is responsible for making the applicant disclosures, and the PHA is responsible for furnishing the owner's disclosures to HUD. Update reports must be submitted through the PHA by the owner.

B. Part II. Threshold Determinations—Applicants Only

Part II contains information to help the applicant determine whether the remainder of the form must be completed. Recipients filing Update Reports should not complete this Part.

1. The first question asks whether the applicant meets the Nature of Assistance and Dollar Threshold requirements set forth in Section I.C.1. above.

If the answer is Yes, the applicant must complete the remainder of the form. If the answer is No, the form asks the applicant to certify that its response is correct, and to complete the next question.

2. The second question asks whether the application is for a specific housing project that involves other government assistance, as described in Section I.C.2. above.

If the answer is Yes, the applicant must complete the remainder of the form. If the answer is No, the form asks the applicant to certify that its response is correct.

If the answer to both questions 1 and 2 is No, the applicant need not complete Parts III, IV, or V of the report, but must sign the certification at the end of the form.

C. Part III. Other Government Assistance.

This Part is to be completed by both applicants filing applicant disclosure reports and recipients filing update reports. Applicants must report any other government assistance involved in the project or activity for which assistance is sought. Recipients must report any other government assistance involved in the project or activity, to the extent required under Section I.D.1., 2., or 3., above.

Other government assistance is defined in note 5 on the last page. For purposes of this definition, other government assistance is expected to be made available if, based on an assessment of all the circumstances involved, there is reasonable grounds to anticipate that the assistance will be forthcoming.

Both applicant and recipient disclosures must include all other government assistance involved with the HUD assistance, as well as any other government assistance that was made available before the request, but that has continuing vitality at the time of the request. Examples of this latter category include tax credits that provide for a number of years of tax benefits, and grant assistance that continues to benefit the project at the time of the assistance request.

The following information must be provided:

1. Enter the name and address, city, State, and zip code of the government agency making the assistance available. Include at least one organizational level below the agency name. For example, U.S. Department of Transportation, U.S. Coast Guard; Department of Safety, Highway Patrol.

2. Enter the program name and any relevant identifying numbers, or other means of identification, for the other government assistance.

3. State the type of other government assistance (e.g., loan, grant, loan insurance).

4. Enter the dollar amount of the other government assistance that is, or is expected to be, made available with respect to the project or activities for which the HUD assistance is sought (applicants) or has been provided (recipients).

If the applicant has no other government assistance to disclose, it must certify that this assertion is correct.

To avoid duplication, if there is other government assistance under this Part and Part V, the applicant/recipient should check the appropriate box in this Part and list the information in Part V, clearly designating which sources are other government assistance.

D. Part IV. Interested Parties.

This Part is to be completed by both applicants filing applicant disclosure reports and recipients filing update reports.

Applicants must provide information on:

(1) All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity; and

(2) Any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds \$50,000 or 10 percent of the assistance (whichever is lower).

Recipients must make the additional disclosures referred to in Section I.D.1., 2., or 4, above.

Note: A financial interest means any financial involvement in the project or activity, including (but not limited to) situations in which an individual or entity has an equity interest in the project or activity, shares in any profit on resale or any distribution of surplus cash or other assets of the project or activity, or receives compensation for any goods or services provided in connection with the project or activity. Residency of an individual in housing for which assistance is being sought is not, by itself, considered a covered financial interest.

The information required below must be provided.

1. Enter the full names and addresses of all persons referred to in paragraph (1) or (2) of this Part. If the person is an entity, the listing must include the full name of each officer, director, and principal stockholder of the entity. All names must be listed alphabetically, and the names of individuals must be shown with their last names first.

2. Entry of the Social Security Number (SSN) or Employee Identification Number (EIN), as appropriate, for each person listed is optional.

3. Enter the type of participation in the project or activity for each person listed: i.e., the person's specific role in the project (e.g., contractor, consultant, planner, investor).

4. Enter the financial interest in the project or activity for each person listed. The interest must be expressed both as a dollar amount and as a percentage of the amount of the HUD assistance involved.

If the applicant has no persons with financial interests to disclose, it must certify that this assertion is correct.

5. **Part V. Report on Sources and Uses of Funds.** This Part is to be completed by both applicants filing applicant disclosure reports and recipients filing update reports.

The applicant disclosure report must specify all expected sources of funds—both from HUD and from any other source—that have been, or are to be, made available for the project or activity. Non-HUD sources of funds typically include (but are not limited to) other government assistance referred to in Part III, equity, and amounts from foundations and private contributions. The report must also specify all expected uses to which funds are to be put. All sources and uses of funds must be listed, if, based on an assessment of all the circumstances involved, there are reasonable grounds to anticipate that the source or use will be forthcoming.

Note that if any of the source/use information required by this report has been provided elsewhere in this application package, the applicant need not repeat the information, but need only refer to the form and location to incorporate it into this report. (It is likely that some of the information required by this report has been provided on SF 424A, and on various budget forms accompanying the application.) If this report requires information beyond that provided elsewhere in the

application package, the applicant must include in this report all the additional information required.

Recipients must submit an update report for any change in previously disclosed sources and uses of funds as provided in Section I.D.5., above.

General Instructions—sources of funds

Each reportable source of funds must indicate:

a. The name and address, city, State, and zip code of the individual or entity making the assistance available. At least one organizational level below the agency name should be included. For example, U.S. Department of Transportation, U.S. Coast Guard; Department of Safety, Highway Patrol.

b. The program name and any relevant identifying numbers, or other means of identification, for the assistance.

c. The type of assistance (e.g., loan, grant, loan insurance).

Specific instructions—sources of funds.

(1) For programs administered by the Assistant Secretaries for Fair Housing and Equal Opportunity and Policy Development and Research, each source of funds must indicate the total amount of approved, and received; and must be listed in descending order according to the amount indicated.

(2) For programs administered by the Assistant Secretaries for Housing-Federal Housing Commissioner, Community Planning and Development, and Public and Indian Housing, each source of funds must indicate the total amount of funds involved, and must be listed in descending order according to the amount indicated.

(3) If Tax Credits are involved, the report must indicate all syndication proceeds and equity involved.

General instructions—uses of funds.

Each reportable use of funds must clearly identify the purpose to which they are to be put. Reasonable aggregations may be used, such as "total structure" to include a number of structural costs, such as roof, elevators, exterior masonry, etc.

Specific instructions—uses of funds.

(1) For programs administered by the Assistant Secretaries for Fair Housing and Equal Opportunity and Policy Development and Research, each use of funds must indicate the total amount of funds involved; must be broken down by amount committed, budgeted, and planned; and must be listed in descending order according to the amount indicated.

(ii) For programs administered by the Assistant Secretaries for Housing-Federal Housing Commissioner, Community Planning and Development, and Public and Indian Housing, each use of funds must indicate the total amount of funds involved and must be listed in descending order according to the amount involved.

(iii) If any program administered by the Assistant Secretary for Housing-Federal Housing Commissioner is involved, the report must indicate all uses paid from HUD sources and other sources, including syndication proceeds. Uses paid should include the following amounts.

AMPO

Architect's fee—design
Architect's fee—supervision
Bond premium
Builder's general overhead
Builder's profit
Construction interest
Consultant fee
Contingency Reserve
Cost certification audit fee
FHA examination fee
FHA inspection fee

FHA MIP

Financing fee

FNMA / GNMA fee

General requirements

Insurance

Legal — construction

Legal — organization

Other fees

Purchase price

Supplemental management fund

Taxes

Title and recording/Operating deficit reserve

Resident initiative fund

Syndication expenses

Working capital reserve

Total land improvement

Total structures

Uses paid from syndication must include the following amounts:

Additional acquisition price and expenses

Bridge loan interest

Development fee

Operating deficit reserve

Resident initiative fund

Syndication expenses

Working capital reserve

Footnotes:

1. All citations are to 24 CFR Part 12, which was published in the Federal Register on March 14, 1991 at 56 Fed. Reg. 11032.
2. A list of the covered assistance programs can be found at 24 CFR §12.30, or in the rules or administrative instructions governing the program involved. Note: The list of covered programs will be updated periodically.
3. Assistance means any contract, grant, loan, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan or mortgage, that is provided with respect to a specific project or activity under a program administered by the Department. The term does not include contracts, such as procurements contracts, that are subject to the Federal Acquisition Regulation (FAR) (48 CFR Chapter 1).
4. See 24 CFR §§12.32 (a)(2) and (3) for detailed guidance on how the threshold is calculated.
5. "Other government assistance" is defined to include any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance from the Federal government (other than that requested from HUD in the application), a State, or a unit of general local government, or any agency or instrumentality thereof, that is, or is expected to be made, available with respect to the project or activities for which the assistance is sought.
6. For further guidance on this criterion, and for a list of covered programs, see 24 CFR §12.50.
7. For purposes of Part 12, a person means an individual (including a consultant, lobbyist, or lawyer); corporation; company; association; authority; firm; partnership; society; State, unit of general local government, or other government entity, or agency thereof (including a public housing agency); Indian tribe; and any other organization or group of people.

federal register

Friday
May 29, 1992

Part XI

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Air Traffic Control Radar Beacon System and Mode S Transponder Requirements in the National Airspace System; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 26886; Notice No. 92-6]

RIN: 2120-AE27

Air Traffic Control Radar Beacon System and Mode S Transponder Requirements in the National Airspace System**AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of proposed rulemaking.

SUMMARY: The FAA proposes to rescind the Mode S transponder requirement for aircraft operating under part 91 of the Federal Aviation Regulations. The Mode S ground sensors, the bulwark of the Mode S system, are not expected to be fully operational until late 1995. Therefore, requiring all aircraft to have Mode S transponders at this time is not essential for a safe and efficient National Airspace System. Additionally, the Air Traffic Subcommittee, an entity of the Aviation Rulemaking Advisory Committee, has recommended that the FAA further study the Mode S transponder requirements for general aviation operators. Until the installation of the Mode S ground sensors and the recommended studies are completed, the FAA has determined that it is not in the public interest to require that any transponder newly installed in an aircraft after July 1, 1992, be a Mode S transponder.

DATES: Comments must be submitted on or before June 29, 1992. Because of the impending effective date of July 1, 1992, for § 91.215(a), the FAA will not be able to entertain requests for extensions of the comment period. However, late-filed comments will be considered to the extent practicable.

ADDRESSES: Comments on this notice should be mailed, in triplicate, to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-10), Docket No. 26886, 800 Independence Avenue, SW., Washington, DC 20591. Comments delivered must be marked Docket No. 26886. Comments may be examined in room 915G weekdays between 8:30 a.m. and 5 p.m., except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Aaron I. Boxer, Air Traffic Rules Branch, ATP-230, Airspace Rules and Aeronautical Information Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting proposal in this notice are also invited. Substantive comments should be accompanied by cost estimates. Comments should identify the regulatory docket or notice number and should be submitted in triplicate to the Rules Docket address specified above. All comments received, as well as a report summarizing any substantive public contact with the Federal Aviation Administration (FAA) personnel on this rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

Before taking final action on the proposal, the Administrator will consider comments made on or before the comment closing date. The proposal may be changed in light of the comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 26886." The postcard will be date stamped and mailed to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM.

Persons interested in being placed on the mailing list for future NPRMs should request from the above office a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

Definitions

The Mode A transponder consists of a radio receiver/transmitter that responds to radar pulses from radar ground sensors. It forms one component of the radar system used in air traffic control. The Mode A transponder can be set to

transmit one of 4,096 distinct radar codes in response to a radar pulse sent by a radar ground sensor. The ground sensor receives the distinct transmission and an amplified return indicates the aircraft's position on the controller's radar scope.

The Mode S transponder is an advanced version of the Mode A transponder. In addition to providing the reliability of solid state circuitry, Mode S transponders can transmit a discrete set of radio pulses (codes) from each aircraft. In conjunction with Mode S ground sensors, a system of nearly interference-free radar transmission and reception will exist. The Mode S transponder is completely interoperable and compatible with existing ground sensors. The Mode A transponder is similarly compatible with Mode S ground sensors.

The Mode S Rule

In 1982 the FAA announced a comprehensive plan to modernize and improve air traffic control and airway facilities. One part of the comprehensive plan included introducing the Mode S system. In an advanced notice of proposed Rulemaking (48 FR 48364, October 18, 1983), the FAA stated that improved surveillance reliability and accuracy would be a central objective of the Mode S system. Mode S transponders were considered an integral link in the system, furnishing accurate, reliable and positive air traffic control information on aircraft identity, position, and altitude. At that time, the first 137 Mode S ground sensors were expected to be on-line by 1991.

Therefore, the Mode S transponder requirement was promulgated with a final rule published February 3, 1987 (Amendment No. 91-198; 52 FR 3380). This final rule required that any transponder newly installed in a general aviation aircraft before January 1, 1992, could be a Mode A or Mode S transponder, provided the transponder was manufactured prior to January 1, 1990. After January 1, 1992, only Mode S transponders could be newly installed in general aviation aircraft.

Due to difficulties in manufacturing Mode S transponders, the FAA amended the installation and manufacturing cutoff dates to July 1, 1992, and January 1, 1991, respectively (Amendment No. 91-210; 54 FR 25681, June 16, 1989). On January 4, 1991, the FAA removed the manufacturing cutoff date associated with the Mode S transponder requirement in response to inventory shortfalls reported by transponder manufacturers (Amendment No. 91-221; 56 FR 467). The testing and installation

schedule of Mode S ground sensors was also experiencing delays.

Section 91.215(a) of the FAR currently provides, in part, that any transponder installed in a U.S.-registered civil general aviation aircraft up to and including July 1, 1992, must meet the performance and environmental requirements of any class of the following technical standard orders (TSOs): TSO-C74b (Mode A) or TSO-C74c (Mode A with altitude reporting capability), as appropriate, or the appropriate class of TSO-C112 (Mode S). Any transponder newly installed in an aircraft after July 1, 1992, must meet the standard of the appropriate class of TSO-C112 (Mode S).

Discussion

The Mode S system is designed to alleviate deficiencies in the current radar system. The deficiencies include synchronous garble, loss of target and altitude integrity, and beacon code requirements approaching the limitations of the existing technology. Of the two components in the Mode S system (i.e., the ground sensor and the transponder), the ground sensor is more critical in alleviating these deficiencies.

Synchronous garble occurs when the ground sensor interrogating two aircraft near one another cannot distinguish between their respective signals. The system then does not display information, or displays erroneous information, on the air traffic controller radar scope. This condition is most likely to hamper air traffic services in areas of high density aircraft activity such as Terminal Control Areas and Airport Radar Service Areas. The latest studies do not indicate to what degree this problem will be eliminated by Mode S ground sensors alone as compared to Mode S ground sensors combined with Mode S transponders. The FAA will analyze results from a study of the first operational Mode S ground sensor to determine, in a system environment, the improvements attributable solely to the new sensor in surveillance integrity and controller workload.

Target and altitude integrity expresses the ability of the radar system to distinguish between transmissions received from two different aircraft. The radar system transmits interrogation signals, and all transponder-equipped aircraft receiving the signal reply with a distinct code and, if so equipped, report the aircraft's altitude. As described earlier, the ability of the current system to distinguish between two signals is affected by the proximity of aircraft to each other. Terrain, signal strength of the aircraft transponder equipment, and environmental factors can also derogate

the ability of the ground sensor to determine the position and altitude of an aircraft. A 1977 FAA sponsored study determined that the existing radar ground sensors provided an overall target and altitude integrity of 82 to 87 percent. The same study indicated that, due to a narrower, more focused interrogation signal, use of Mode S ground sensors with Mode A transponder equipment could improve integrity to 96 percent.

A homogeneous Mode S system, consisting of both Mode S ground sensors and transponders, will vastly improve accuracy in the surveillance of aircraft position and reduce interference in identity reports transmitted to air traffic controllers. The range accuracy of existing sensors is 729 feet. In other words, when two aircraft are on the same bearing from an existing sensor and are less than 729 feet apart, one of the targets might not be displayed on the controller's radar scope. When the Mode S system is fully implemented, the targets of those aircraft can be expected to be displayed separately on the controller's radar scope even when those aircraft are only 25 feet apart. Similarly, azimuth accuracy will improve with the Mode S system. To illustrate, when two aircraft are equal distances from a sensor in the existing system, they must be at least .23 degrees of azimuth apart before both targets would be displayed. With the Mode S system, those same aircraft need only be apart by .06 degrees of azimuth. The 1976 study postulated that a homogeneous Mode S environment (Mode S ground sensors and transponders) would increase integrity to more than 99 percent. Recent FAA tests of the Mode S ground sensors have verified these figures. The study to be performed following installation of the first ground sensor will confirm the degree of integrity and accuracy of Mode S ground sensors in an on-line system environment of Mode A and Mode S transponders.

As the number of aircraft being handled in the National Airspace System increases, the number of codes required will eventually exceed the current limit of 4,096 discrete codes. The controllers assign radar codes, used to track aircraft position and altitude, to aircraft receiving air traffic services. The Mode S transponder is not limited to 4,096 possible codes. A Mode S transponder allows air traffic control to assign, transmit, and receive a radar code for each individual aircraft. Since commercial aircraft, requiring approximately 75 percent of the discrete codes assigned, are already installing Mode S transponders, the strain on the

current transponder technology limits will be mitigated when the individually assigned radar code feature of Mode S is utilized.

Need for Rulemaking

The FAA has contracted to buy 137 Mode S ground sensors, which are crucial elements of the Mode S system. Because the sensors are not expected to be fully operational until late 1995 or early 1996, the more costly Mode S transponder equipment is not yet necessary for general aviation aircraft. As the Mode S ground sensors become operational and the vast majority of the commercial fleet becomes equipped with Mode S transponders, the need for general aviation aircraft to use Mode S transponders may be further diminished. Future testing, as Mode S ground sensors come on-line, will confirm the extent of this need.

The FAA has also received recommendations for further study of the Mode S transponder requirement. On January 22, 1991, the Aviation Rulemaking Advisory Committee (ARAC) was established (56 FR 2190). The ARAC consists of 59 aviation related organizations brought together to advise the FAA on various regulatory issues. The FAA asked the Air Traffic Subcommittee, an element of the ARAC, to examine the current Mode S requirements for aircraft operating under part 91. The Air Traffic Subcommittee recommended that the FAA: (1) Change the requirements of § 91.215 of the FAR to require installation of Mode S transponders on newly manufactured, type certificated aircraft after July 1, 1996; (2) exempt balloons, gliders, and other aircraft with electrical limitations from the rule; (3) conduct a study of the first Mode S ground sensor installed to determine the extent of benefits derived from the ground sensor alone; (4) publish a progress report within six months after the commissioning of the ground sensor, giving an expected completion date of the study; and (5) examine the costs and benefits of requiring Mode S transponder equipment in specific airspace areas needing such treatment.

The FAA agrees with the ARAC's suggestion that the requirement to install Mode S transponders in general aviation aircraft after July 1, 1992, may exceed the minimum requirements of the present and immediate future for a safe and efficient National Airspace System. While areas of high density aircraft activity might benefit from the improved target and altitude integrity of the Mode S system, many portions of airspace over the country might not require a

homogeneous Mode S environment before the next century. The recommended study, which the FAA is about to undertake, will show whether the problems that would be solved by a homogeneous Mode S environment are significant enough to warrant mandatory general aviation equipage for operation in all airspace.

The Proposal

Until the FAA completes the study to reevaluate the specific need and benefit of Mode S transponder equipage on general aviation aircraft, it proposes to rescind the Mode S transponder requirement for aircraft operating under Part 91 of the Federal Aviation Regulations.

Regulatory Evaluation Summary

This section summarizes the regulatory evaluation prepared by the FAA. The regulatory evaluation provides more detailed information on estimates of the potential economic consequences of this proposal. This summary and the evaluation quantify, to the extent practicable, the estimated costs of the proposal to the private sector, consumers, and Federal, State, and local governments, and also the anticipated benefits.

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of a Regulatory Impact Analysis of all "major" rules except those responding to emergency situations or other narrowly defined exigencies. A "major" rule is one that is likely to result in an annual effect on the economy of \$100 million or more, a major increase in consumer costs, or a significant adverse effect on competition.

The FAA has determined that this proposal is not "major" as defined in the executive order. Therefore, a full regulatory impact analysis, which includes the identification and evaluation of cost-reducing alternatives to the proposal, has not been prepared. Instead, the Agency has prepared a more concise document termed a "regulatory evaluation," which analyzes only this proposed rule without identifying alternatives. In addition to a summary of the regulatory evaluation, this section also contains an initial regulatory flexibility determination required by the Regulatory Flexibility Act of 1980 (P.L. 96-354) and an international trade impact assessment. For more detailed economic information

than this summary contains, the reader should consult the regulatory evaluation contained in the docket.

Benefits

The proposed rule would generate benefits in the form of cost relief to part 91 operators who would be required to install Mode S transponders in their aircraft after July 1, 1992. These benefits are estimated to range from \$31 million to \$63 million (discounted, 1991 dollars). The methodology used to derive this range of potential benefits is discussed below.

This evaluation employed two steps to derive the potential benefits of the proposed rule. First, it was necessary to determine the number of general aviation aircraft operators who would be impacted and the extent they would be impacted. This information was obtained by contacting a number of industry representatives (i.e., transponder manufacturers, fixed based operators (FBOs), and trade associations). The General Aviation Manufacturers Association (GAMA) was contacted for information related to the number of transponders purchased annually by general aviation operators (namely, those operators with small, single-engine, piston aircraft). Based largely on information prepared by GAMA, the FAA estimates that sales of transponders (such as ATCRBS) to general aviation operators averaged about 4,000 per year between 1983 and 1987.

From 1988 to 1991, transponder sales to general aviation aircraft operators averaged approximately 7,700 per year. Sales of these transponders peaked at approximately 8,900 units in 1989. For the purpose of this evaluation, sales of these transponders only up to 4,000 between 1988 and 1991 will be counted to exclude sales attributable solely to the Mode C rule. The number of transponders sold between 1983 and 1987 is considered to be more indicative of normal sales. Therefore, the estimate of 4,000 has been used as a means of projecting the number of annual transponders sales between 1992 and 2006. This estimate represents the number of new transponders installed annually by general aviation aircraft operators. Over the next 15 years, an estimated 58,000 transponders could be purchased primarily by small general aviation aircraft operators. However, not all of these transponders would be purchased by general aviation operators after July 1, 1992. The FAA contends that at least half of these general aviation operators would elect to have their existing transponders repaired for under \$500 rather than pay five or six

times this price for a newly installed Mode S transponder. The current Mode S rule will only impact operators who plan to install any type of new transponder, after July 1, 1992.

Because of the lack of precision associated with this assessment, the FAA estimates that 29,000 to 58,000 Mode S transponder purchases would be affected by the proposed rule over the next 15 years.

The low end of this range represents a scenario that assumes demand for Mode S transponders would drop by at least 50 percent after July 1, 1992. This assessment is based largely on information received from GAMA and conversations with general aviation pilots, who were asked, "In view of the fact that Mode S ground sensor sites will not be in place before late 1995 or early 1996, coupled with the fact that the Mode S rule for general aviation operators takes effect on July 1, 1992, what would be the impact on the annual sales of transponders?" All respondents indicated that the demand for Mode S transponders would drop by 50 to 75 percent for those reasons stated earlier. The high end of this range represents a scenario that assumes demand for transponders would not change from the historical annual sales average of 4,000 units.

The next step in deriving an estimate of potential benefits involved contacting a number of Mode S transponder manufacturers and FBOs. These industry representatives were contacted for the purpose of obtaining cost estimates of acquiring and installing Mode S transponders (without data link capability). According to these industry representatives, the average price (including installation) of a panel mounted Mode S transponder (without data link capability) for a small general aviation aircraft is \$3,500 compared to \$1,300 to \$1,800 for a Mode A or Mode C transponder (in 1991 dollars). The average difference between a Mode T and a Mode A or C transponder is estimated to be \$2,000. The representatives also indicated that the cost for biennial maintenance for a Mode S transponder is estimated to be the same as that for a Mode A transponder (ATCRBS). The biennial maintenance cost estimate for a Mode A transponder is about \$60.

Since general aviation aircraft operators are expected to purchase an estimated 4,000 ATCRBS transponders (with and without Mode C capability) annually, over the next 15 years, at an estimated average price of \$1,500, the incremental cost of compliance with the current Mode S rule is expected to be

\$2,000 (\$3,500 less \$1,500). This evaluation assumes that general aviation aircraft operators would purchase these ATCRBS transponders in the absence of the current Mode S rule. Therefore, rescinding the Mode S requirement for Part 91 operators would save them an estimated \$2,000 each time they replace their existing ATCRBS transponder with a new one.

From July 1, 1992 to December 30, 2006, the proposed rule is expected to generate potential cost relief benefits ranging from estimates of \$58 million ($29,000 \times \$2,000$) to \$116 million ($58,000 \times \$2,000$). Discounted over this 15-year period (using an interest rate of 10 percent), benefits could range from an estimated \$31 million to \$63 million.

Costs

The proposed rule is not expected to impose any costs (monetary or safety) on either Mode S transponder manufacturers or society. This assessment is based on rationale contained in the following sections.

Cost Impact on Mode S Transponder Manufacturers

The proposed rule would only rescind the Mode S rule requirements for Part 91 operators, and it would not impose any future requirements or costs on manufacturers of panel mounted Mode S transponders. However, some of these manufacturers have incurred costs for developing panel mounted Mode S transponders in response to the existing Mode S rule. Such costs, which range from \$2 million to \$4 million (undiscounted), are sunk. Once an investment is made and cannot be altered, it is referred to as sunk costs. In rulemaking, the economic evaluation considers only future costs as opposed to sunk costs (or passed costs). Even though some manufacturers of panel mounted Mode S transponders cannot recover their development costs, the FAA has determined that the net benefit of the proposed rule is in the interest of the public.

Cost Impact on Society

The proposed rule would not impose societal costs in the form of an unacceptable decrease in aviation safety. An integral part of the Mode S rule is the ground sensor. These sensors, when combined with aircraft equipped with Mode S transponders, better enable Air Traffic Control to track aircraft positions and provide more interference-free identity reports of targets. This situation would enhance aviation safety by reducing the likelihood of mid-air collisions as the result of having more accurate target

information. Since the first phase of 137 ground sensors will not be operational until either late 1995 or early 1996, the full potential benefits of Mode S transponders will not be realized before then. Mode S transponders do, however, complement the traffic alert and collision avoidance system (TCAS) in a manner similar to Mode A transponders. However, without the ground sensors in place, Mode S transponders provide no more benefits than advanced solid state Mode A transponders. Thus, there would not be an unacceptable reduction in aviation safety as the result of the proposed rule. In fact, in some instances, the proposed rule could enhance aviation by allowing the equipage of Mode C transponders rather than the equipage of Mode S transponder with only a Mode A transponder (lacking altitude encoding) capability.

Once the radar ground sensors are in place, aviation safety is expected to be improved by approximately 10 percent over the current radar sensor system. This assessment is based on a 1977 FAA sponsored study which determined that the current radar ground sensors provide an overall target and altitude integrity of 82 to 87 percent. The study also indicated that with Mode S ground sensors and current aircraft transponder equipment (namely, either Mode A or Mode C transponders), integrity would improve to 96 percent. The study went on to postulate that with a homogeneous Mode S environment, consisting of Mode S ground sensors and transponders, integrity would exceed 99 percent. Thus, Mode S transponders would add another 3 percent of improvement to aviation safety.

The final rules for TCAS and Mode C transponders have already achieved much of the improvement in aviation safety expected from the Mode S transponder requirement in the form of lowering the likelihood of mid-air collisions between low and high performance aircraft. While the current Mode S rule will require newly installed transponders for all aircraft to be Mode S, regardless of airspace used, whether such requirements are warranted beyond terminal control areas and airport radar service areas needs to be further ascertained. The need for Part 91 operators to use Mode S transponders should also be confirmed. These issues will be addressed in a separate study following installation of the Mode S ground sensors.

Comparison of Costs and Benefits

Thus, in view of the estimated zero cost of compliance and the estimated cost relief benefits between \$31 million and \$63 million (discounted), the FAA

has determined that the proposed rule is cost-beneficial.

International Trade Impact Statement

The proposed rule would neither have an effect on the sale of foreign aviation products or services in the United States, nor would it have an effect on the sale of United States products or services in foreign countries. This is because the proposed rule would neither impose costs on aircraft operators or aircraft manufacturers (U.S. or foreign).

Initial Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted to ensure that small entities are not unnecessarily and disproportionately burdened by Government regulations. The RFA requires agencies to review proposed rules which may have "a significant economic impact on a substantial number of small entities." As discussed in the costs section of this evaluation, the proposed rule would not impose costs. Therefore, the proposed rule would not have any significant economic impact on a substantial number of small entities.

Federalism Implications

This proposal would not have substantial direct effects on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Paperwork Reduction Act

This proposal would rescind an agency regulation and does not change any reporting requirements.

Conclusion

For the reasons discussed in the preamble and based on the findings in the Initial Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this proposed regulation is not "major" under Executive Order 12291. In addition, the FAA certifies that this proposal, if adopted, would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. This proposal is considered "significant" under DOT Regulatory Policies and Procedures (44 FR 111034; February 26,

1979). A regulatory evaluation of the regulation, including an initial regulatory flexibility determination and international trade impact analysis has been placed in the docket. A copy may be obtained by contacting the person identified under "FOR FURTHER INFORMATION CONTACT."

List of Subjects in 14 CFR Part 91

Air traffic control, Aviation safety.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 91 of the Federal Aviation Regulations (14 CFR part 91) as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. app. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (81 Stat. 1180); 42 U.S.C. 4321 et seq.; E.O. 11514, 35 FR 4247, 3 CFR, 1966-1970 Comp., p. 902; 49 U.S.C. 106(g).

2. Section 91.215(a) is revised to read as follows:

§ 91.215 ATC transponder and altitude reporting equipment and use.

(a) *All airspace: U.S.-registered civil aircraft.* For operations not conducted under part 121, 127 or 135 of this chapter, ATC transponder equipment installed must meet the performance and environmental requirements of any class of TSO-C74b or any class of TSO-C74c as appropriate, or the appropriate class of TSO-C112.

Issued in Washington, DC, on May 26, 1992.

L. Lane Speck,

Director, Air Traffic Rules and Procedures Service.

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102d Congress, 2nd Session, 1992

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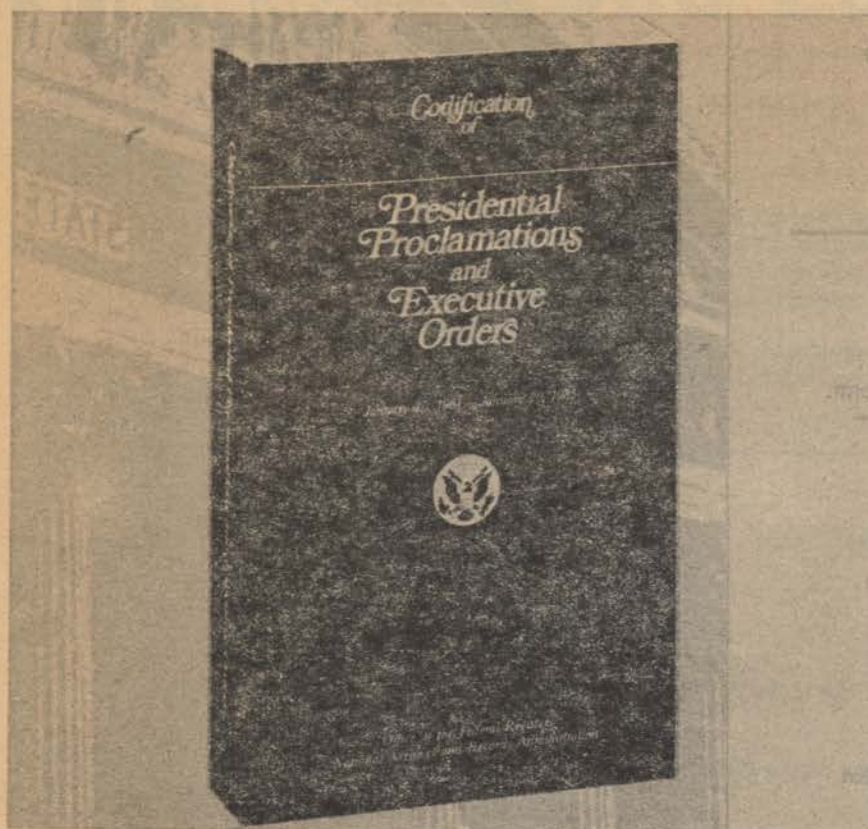
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Guide to Record Retention Requirements in the Code of Federal Regulations (CFR)

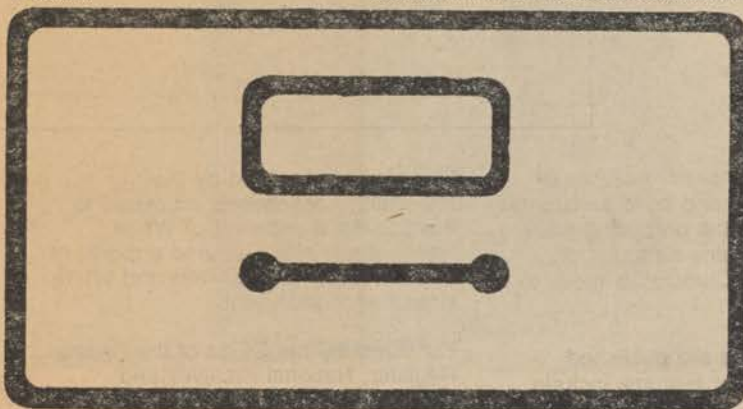
GUIDE: Revised January 1, 1992

The GUIDE to record retention is a useful reference tool, compiled from agency regulations, designed to assist anyone with Federal recordkeeping obligations.

The various abstracts in the GUIDE tell the user (1) what records must be kept, (2) who must keep them, and (3) how long they must be kept.

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| Type of Record | Retention Period |
|--|------------------|
| General administrative records | 5 years |
| Records of personnel files | 5 years |
| Records of financial statements | 7 years |
| Records of contracts and agreements | 5 years |
| Records of correspondence | 5 years |
| Records of legal proceedings | 10 years |
| Records of research and development | 5 years |
| Records of technical drawings and specifications | 5 years |
| Records of quality control and inspection | 5 years |
| Records of safety and health | 5 years |
| Records of environmental monitoring | 5 years |
| Records of public information | 5 years |
| Records of internal communications | 5 years |
| Records of training and education | 5 years |
| Records of equipment and facilities | 5 years |
| Records of inventory | 5 years |
| Records of procurement | 5 years |
| Records of sales and marketing | 5 years |
| Records of customer service | 5 years |
| Records of product development | 5 years |
| Records of manufacturing | 5 years |
| Records of distribution | 5 years |
| Records of customer feedback | 5 years |
| Records of employee performance | 5 years |
| Records of employee training | 5 years |
| Records of employee compensation | 5 years |
| Records of employee benefits | 5 years |
| Records of employee safety | 5 years |
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| Records of employee contracts | 5 years |
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| Records of employee procedures | 5 years |
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| Records of employee directories | 5 years |
| Records of employee rosters | 5 years |
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| Records of training and education | 5 years |
| Records of equipment and facilities | 5 years |
| Records of inventory | 5 years |
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| Records of customer service | 5 years |
| Records of product development | 5 years |
| Records of manufacturing | 5 years |
| Records of distribution | 5 years |
| Records of customer feedback | 5 years |
| Records of employee performance | 5 years |
| Records of employee training | 5 years |
| Records of employee compensation | 5 years |
| Records of employee benefits | 5 years |
| Records of employee safety | 5 years |
| Records of employee health | 5 years |
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| Records of environmental monitoring | 5 years |
| Records of public information | 5 years |
| Records of internal communications | 5 years |
| Records of training and education | 5 years |
| Records of equipment and facilities | 5 years |
| Records of inventory | 5 years |
| Records of procurement | 5 years |
| Records of sales and marketing | 5 years |
| Records of customer service | 5 years |
| Records of product development | 5 years |
| Records of manufacturing | 5 years |
| Records of distribution | 5 years |
| Records of customer feedback | 5 years |
| Records of employee performance | 5 years |
| Records of employee training | 5 years |
| Records of employee compensation | 5 years |
| Records of employee benefits | 5 years |
| Records of employee safety | 5 years |
| Records of employee health | 5 years |
| Records of employee records | 5 years |
| Records of employee files | 5 years |
| Records of employee correspondence | 5 years |
| Records of employee contracts | 5 years |
| Records of employee agreements | 5 years |
| Records of employee policies | 5 years |
| Records of employee procedures | 5 years |
| Records of employee manuals | 5 years |
| Records of employee handbooks | 5 years |
| Records of employee guides | 5 years |
| Records of employee directories | 5 years |
| Records of employee rosters | 5 years |
| Records of employee lists | 5 years |
| Records of employee registers | 5 years |
| Records of employee books | 5 years |

